

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA  
FOR THE COUNTY OF YAVAPAI

2011 NOV 22 PM 2: 55

**SANDRA K MARKHAM, CLERK**

BY: Jacqueline Harshman

STATE OF ARIZONA,

Plaintiff,

vs.

JAMES ARTHUR RAY,

Defendant.

Case No. V1300CR201080049

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE WARREN R. DARROW

TRIAL DAY TWELVE

MARCH 9, 2011

Camp Verde, Arizona

**ORIGINAL**

REPORTED BY  
MINA G. HUNT  
AZ CR NO. 50619  
CA CSR NO. 8335

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
2 FOR THE COUNTY OF YAVAPAI

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4 STATE OF ARIZONA, )  
5 Plaintiff, )  
6 vs ) Case No. V1300CR201080049  
7 JAMES ARTHUR RAY, )  
8 Defendant )

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1 INDEX

2		
3	EXAMINATIONS	PAGE
4	WITNESS	
5	JENNIFER HALEY	
6	Cross continued by Ms. Do	19
7	Redirect by Ms. Polk	51
8	Recross by Ms. Do	85
9	Further redirect by Ms. Polk	87
10	Further recross by Ms. Do	88
11	Further redirect by Ms. Polk	89
12	NELL A. WAGONER	
13	Direct by Mr. Hughes	92
14	Cross by Mr. Kelly	166
15	Redirect by Mr. Hughes	210
16	DENNIS MEHRAVAR	
17	Direct by Ms. Polk	223

18 EXHIBITS ADMITTED

19		
20		
21		
22		
23		
24		
25		
	Number	Page
	227, 228	188
	190, 191	231
	749	236

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1 Proceedings had before the Honorable  
2 WARREN R. DARROW, Judge, taken on Wednesday,  
3 March 9, 2011, at Yavapai County Superior Court,  
4 Division Pro Tem B, 2840 North Commonwealth Drive,  
5 Camp Verde, Arizona, before Mina G. Hunt, Certified  
6 Reporter within and for the State of Arizona.  
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## PROCEEDINGS

THE COURT: On the record in State versus James Arthur Ray, with Mr. Ray and the attorneys present. The jury is not present.

I just wanted to go over 404(b) again. I wanted to revisit that. Now that I've heard some testimony, I think it's necessary to provide some additional guidance.

Let me go back to the original ruling where I held that prior sweat lodge events and medical effects of those events are not admissible to show knowledge or conscious disregard on manslaughter charges. That was the essential ruling.

By operation of Arizona law, the defendant would be on notice of the charge of negligent homicide. I've indicated I believe that, had the charge been negligent homicide only, that much of this evidence would have been admissible under 404(b).

I believe there still would have been the need for medical testimony, for example -- and I'm not saying this is some kind of an issue, but just to give an example of what I'm talking about, if there was some duty to inquire about medical

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effects, had there been inquiry, what would have been learned? Just as an example.

But the charge was not just negligent homicide. And as a result of that, the 403 factor comes in because of the charge of manslaughter. And I determined that it's not appropriate to allow evidence under 404(b) that would apply only to the lesser included negligent homicide charge but not to the manslaughter charge.

The risk of prejudice would just be too great to have that in place. And I didn't see any further briefing on that.

The ruling that I issued did not cover admissibility for non-404(b) purposes. If the evidence -- if the information is disclosed properly, then it can be offered in good faith for a non-404(b) purpose. And my ruling would not have changed that in any way. That would just be the typical posture of any case where there are objections or motions in limine that come up during trial.

One potential non-404(b) purpose is related to causation. I made that determination. I can see that there may be relevance to that question.

However, I conclude that until there is expert testimony indicating that evidence of medical effects of prior events is relevant evidence, then the evidence should not be offered for that purpose.

I talked about conditional admission under Rule 104, specifically 104(b). But the risk there would be that a lot of this evidence would come in and it would never be tied to causation. The old cart-before-the-horse analogy.

So that's what I've -- that's my determination, and that's what people need to know for today.

Another -- I want to talk about the testimony of Jennifer Haley, just as an example. She testified about a prior sweat lodge event that she participated in, and that could have independent basis for admissibility. Not just the causation question. But it does raise the issue of what can happen with imprecise testimony about the effects of a prior sweat lodge.

She testified, in her opinion, needed to go to the hospital. Just potentially very prejudicial testimony.

However, the testimony regarding the

8

prior sweat lodge had other relevance besides the effect on the one participant she talked about.

There was a bench conference regarding Ms. Haley, and there was an indication that the state wanted to question about the knowledge of Mr. Ray concerning that effect on that participant.

There was actually testimony to that effect anyway, and it was not objected to. And I think it had a basis for admissibility. It came up in another context in Miss Haley's testimony.

However, at bench it was indicated that the relevance of knowledge of Mr. Ray would be that he would know that it was heat. And that's not pertinent to the issue of causation.

So right now I've acknowledged that there are some non-404(b) grounds for admissibility, and these, essentially, have been urged by the state. One I discussed at the pretrial conference on March 1 at the start. And that is as rebuttal if there is an inaccurate portrayal of state of knowledge by Mr. Ray. That was one.

The other that has come up is causation. But I've determined that it's not going to be appropriate to admit evidence conditionally under 104(b). That there would have to be expert

1 testimony that would indicate that evidence of  
2 effects of prior sweat lodge events is relevant to  
3 the issue of causation.

4 And then there has just been a discussion  
5 throughout about what is relevant to the state of  
6 mind of a participant and what was done by a  
7 participant or by one of the alleged victims.

8 I also wanted to mention with regard to  
9 questioning witnesses -- and I'm noting the length  
10 of the testimony of witnesses. And the Court will  
11 certainly assist, if requested, by either counsel  
12 if questions are not being answered.

13 I don't like to interject myself into a  
14 proceeding. I prefer not to do that. But I'm  
15 going to just to fulfill my responsibility to make  
16 sure the trial proceeds in a reasonable manner.

17 So the parties can ask me to assist if a  
18 witness is not answering a question.

19 With regard to the disclosure question  
20 that came up yesterday, which I think is a serious  
21 matter, do you have additional authority on that,  
22 Ms. Do?

23 MS. DO: I do, Your Honor. Thank you very  
24 much.

25 I would like to cite the Court to

1 Osborne, O-s-b-o-r-n-e, versus Superior Court of  
2 Pinal County. The citation is 157 Ariz. 2, 1988  
3 decision. And I have copies for both Court and  
4 counsel.

5 THE COURT: Please.

6 MS. DO: May I approach?

7 THE COURT: Yes.

8 MS. DO: Your Honor, Osborne was a case  
9 involving a first-degree murder. It was an inmate  
10 murder case. And in that case the state had  
11 requested and the Court ordered the defendant to  
12 disclose impeachment materials to the state under  
13 15.2 in advance of the trial, Obviously, in advance  
14 of cross-examination.

15 THE COURT: Because I didn't want to start  
16 late again, I really want to get right down to the  
17 issue.

18 And I'm already seeing things like just  
19 in the headnotes, the defendant was not required to  
20 provide -- defense counsel had no obligation to  
21 provide tapes or transcripts of witness statements  
22 taken in prosecutor's presence, which prosecutor  
23 chose not to record. That is a major, major  
24 distinction in what happened here.

25 MS. DO: Your Honor, there is more.

1 THE COURT: Okay. Then tell me right where it  
2 goes, where it's authority to have an exhibit  
3 brought up in the middle of testimony, after the  
4 state has finished direct testimony, when there has  
5 been no chance to address that.

6 Show me in this case where the exhibit  
7 then came forward, and said, yes. You don't have  
8 to provide that to the prosecutor. Show me the  
9 exact page where that authority is contained.

10 MS. DO: Your Honor, this case involved -- in  
11 terms of the evidence, it was tapes and transcripts  
12 of a prior disciplinary hearing.

13 As I mentioned, this is an inmate murder.  
14 It also involved, as the Court has indicated, the  
15 tapes and transcripts of a prosecution witness, an  
16 interview taken in the presence of the prosecutor.

17 But the tapes and transcript of the prior  
18 disciplinary hearing was not disclosed to the  
19 state. The state requested it. The Court then  
20 ordered it disclosed as mandatory under 15.2.

21 The defense took a special action. The  
22 case -- the ruling was reversed, finding that there  
23 was an abuse of discretion by the trial court.

24 The proposition in this case is that the  
25 defense does not have a duty under 15.2 to turn

1 over impeachment materials. And I would cite the  
2 Court specifically to page 3 and page 4 of the case  
3 opinion.

4 Essentially, the state there argued that  
5 even impeachment evidence materials that the  
6 defense would use during impeachment of their  
7 witnesses qualified as evidence under 15.2,  
8 Subsection (c)(3), that requires the defense to  
9 provide a list of all real evidence it intends to  
10 use at trial. Here the appellate court stated that  
11 that impeachment materials is not covered under  
12 15.2(c)(3).

13 And obviously the photographs that we  
14 used were impeachment of Miss Haley's testimony.

15 The defense would not ever offer the  
16 evidence in its case in chief. We've been  
17 objecting to the admission of any prior acts. It  
18 was clearly impeachment material.

19 And in this case, it stands for the  
20 proposition that we do not have a mandatory  
21 disclosure obligation when it comes to impeachment.

22 THE COURT: Ms. Polk, I doubt you had a chance  
23 to read the case.

24 MS. POLK: Your Honor, I am just looking at it  
25 right now. I think the Court's initial reaction is

1 accurate.

2 I'm looking at Page 3 of the decision.  
3 And it starts with the footnotes -- or the Westlaw  
4 Notations 1 and 2. And that's where the Court  
5 says, we disagree with the state's interpretation  
6 of Rule 15.2(c)(3). First, we believe that this  
7 subsection is limited by its terms to items of real  
8 as opposed to testimonial evidence, the latter  
9 sections being covered by Subsections 1 and 2.

10 I think the Court -- you rightly saw  
11 there is a distinction between prior statements  
12 taken in the presence of opposing counsel as  
13 opposed to real evidence, which clearly needs to be  
14 timely disclosed.

15 THE COURT: Okay.

16 MS. DO: If you would continue on, Your Honor,  
17 to Headnote 4, the same rationale behind not  
18 requiring a defense to disclose impeachment  
19 materials in the form of prior witness's  
20 statements. The appellate said the same -- and I  
21 quote, the same is true with respect to the tapes  
22 and transcripts of the prior prison disciplinary  
23 hearing, which does not involve a prior  
24 inconsistent statement to which the state was  
25 present.

1 Tapes and transcripts are real evidence,  
2 that would normally be covered under 15.2  
3 subsection(c)(3), if used in the defense in the  
4 case in chief. But here it was used as impeachment  
5 evidence.

6 I think the rationale makes common sense.  
7 There is no way for the defense to be able to  
8 anticipate with every one of the witness. Here  
9 we're now up to 73 witnesses, by the last amended  
10 witness list, to be able to anticipate what they're  
11 going to do, what they're going to say under  
12 direct.

13 I think the Court's ruling yesterday  
14 finding the defense is in violation of disclosure  
15 rules and precluding critical evidence to rebut the  
16 evidence, that the Court again noted some serious  
17 403 concerns. We left court yesterday wondering  
18 how broad is this rule going to apply.

19 THE COURT: I need to stop you. I've never  
20 seen that where someone comes up with an exhibit in  
21 the middle of testimony to impeach.

22 It had hearsay on it, admittedly. There  
23 was no way to address the timing. Now, there is  
24 something to litigate.

25 In terms of statements, just look at

1 Rule 613. It even contemplates that the witness  
2 doesn't have to be shown the statement at the time.  
3 It's right there in the rule. So I think  
4 statements are arguably treated somewhat  
5 differently.

6 Without any time to read this case, it  
7 seems to me a major distinction is having the  
8 state -- in this case it's the state -- choose --  
9 you know -- here's this proceeding. We could have  
10 looked at that if we wanted. And we had access to  
11 it. We chose not to.

12 And then the defense wants to use that.  
13 And then they say, oh, no. Now you've got to shows  
14 us exactly what you want us to use when they had  
15 all the opportunities to look at that.

16 And in this instance, as I've indicated,  
17 all it would have taken, in my view, to get past  
18 any prejudice issue is just disclose it at the  
19 start as evidence in your case, apparently, to show  
20 that it was not consistent with what was testified  
21 by Ms. Haley. It was not consistent with what was  
22 revealed in that photograph.

23 And as I understand it -- I want this  
24 clear on the record -- apparently initially you  
25 were doing that and you actually have the clerk

1 listed it. Because I saw an addendum page with  
2 exhibits listed, and then you took it back. And  
3 then you created a litigation issue over the  
4 accuracy of that, when it was taken and a number of  
5 things like that.

6 Whereas the proceeding -- I have to go on  
7 your avowal as to what's in the case. Obviously I  
8 haven't had time to read it. Whereas in the case  
9 you're citing, it appears that the state had a form  
10 of knowledge of everything that was done in that  
11 proceeding but just chose not to proceed with it.

12 I'm just saying I've never seen this  
13 before where an exhibit just has come up. I'm not  
14 saying that that means it's not a legitimate thing  
15 to do. But it created an issue that required  
16 potential litigation.

17 Was it clearly impeaching or not? The  
18 state didn't have an opportunity to have any input  
19 into that. So I need to read this case.

20 At this point the rules require when  
21 there is disclosure, when something comes up, if  
22 you think something has come up now, to disclose --  
23 I don't know that you've formally complied with  
24 that now. I'm not going to go any further.

25 I don't know that you've complied yet

1 with Rule 15.6 with that evidence, with the  
2 affidavit, and what you need to do if you have  
3 something that comes into your possession within a  
4 week of trial. So I'll read the case.

5 At this point it just seems that the  
6 factual distinctions -- seems like a whole  
7 different situation than creating an exhibit now  
8 that may have two sides to it as opposed to a clear  
9 impeachment item, such as a prior statement, that  
10 is embodied in a satisfactory form.

11 But we've already seen what can happen if  
12 there is a prior statement and there is not an  
13 agreement on the accuracy of the transcript, how is  
14 that going to be handled. Those kinds of things  
15 come up as well.

16 MS. DO: That's fine, Your Honor. We can take  
17 this up more. I think the Court's acknowledgment  
18 that the photographs that the Court has seen was  
19 inconsistent with Miss Haley's testimony regarding  
20 the incident with Miss Nelson. And being  
21 inconsistent, it is impeachment evidence.

22 And once the Court reads this case, the  
23 Court will understand this case was not limited to  
24 prior inconsistent statements under 613.

25 THE COURT: Are you telling me the fact that

1 the state chose not to avail itself of that  
2 information, that's no factor in that decision?

3 MS. DO: In this case?

4 THE COURT: In the case you're citing to me.  
5 Yes. The Superior Court --

6 MS. DO: Osborne.

7 THE COURT: Osborne versus Superior Court.

8 MS. DO: Well, Your Honor, I think the Court  
9 found the defense in violation of 15.2 because it  
10 failed to disclose the impeachment material. This  
11 case is saying we have no such duty.

12 THE COURT: I -- all right.

13 Anything else?

14 MS. DO: No, Your Honor.

15 THE COURT: I'll read the case.

16 Ms. Polk, anything further?

17 MS. POLK: No, Your Honor.

18 THE COURT: Let's bring the jury in.

19 (Proceedings continued in the presence of  
20 jury.)

21 THE COURT: We are on the record. The  
22 defendant, Mr. Ray, is present, the attorneys, and  
23 the jury.

24 And the bailiff is now summoning  
25 Ms. Haley.

1 Ms. Haley, please come forward and take  
2 the witness stand again.

3 Ms. Haley has previously been sworn.

4 Ms. Do, you can continue with  
5 cross-examination.

6 MS. DO: Thank you, Your Honor.

7 CROSS-EXAMINATION (Continued)

8 BY MS. DO:

9 Q. Good morning, Ms. Haley.

10 A. **Good morning.**

11 Q. I just wanted to let you know I think, or  
12 I hope, I have about 15 or 20 more minutes with  
13 you.

14 A. **Okay.**

15 Q. So thank you for your patience.

16 Yesterday, when we broke for the day, adjourned for  
17 the day, you and I were talking about whether or  
18 not you heard, on the night of the 8th, right after  
19 this all happened, somebody saying they thought  
20 maybe it was carbon monoxide.

21 Do you remember that?

22 A. **I remember saying that. I heard --**

23 Q. Let me just stop you. My question is --

24 A. **No.**

25 Q. My question is, do you remember us

1 leaving it there yesterday?

2 A. **I remember.**

3 Q. I'm going to pick up there. All right?

4 A. **Okay.**

5 Q. Now, as I understand your testimony  
6 yesterday, you told this jury a couple of times  
7 that you simply had no idea -- right? -- that night  
8 of what had caused these people to -- the two  
9 people who died that night and everyone else who  
10 got sick. Is that correct?

11 A. **Correct.**

12 Q. You also told this jury yesterday that  
13 you did not hear a cop or a law enforcement person  
14 say maybe it was carbon monoxide, that they were  
15 simply checking into something?

16 A. **That they were checking for carbon  
17 monoxide or however you say it.**

18 Q. So let me ask you again.

19 Did you or did you not hear a cop say  
20 maybe it was carbon monoxide?

21 A. **No.**

22 Q. And again, is it your testimony here,  
23 under oath, that night on October 8, 2009, you  
24 simply had no idea, no belief, of what caused all  
25 these people to go to the hospital?

1 **A. Can you repeat that question, please.**

2 **Q.** Sure. Is it your testimony here to this  
3 jury, under oath, that that night on  
4 October 8, 2009, you simply had no idea, no belief,  
5 as to what could have caused this to happen?

6 **A. No. That's not true. I had a lot of**  
7 **ideas. But I wasn't sure.**

8 **Q.** All right. And did you communicate those  
9 ideas to the cop that you spoke to -- Detective  
10 Steve Surak?

11 **A. Yes.**

12 **Q.** All right. And you also said yesterday,  
13 and I told you that I wanted to come back to it.  
14 You had said, and I believe these were your words,  
15 that you believe -- and you were speaking about Liz  
16 Neuman. I believe Liz was feeling shameful, having  
17 to do with a wine episode. That absolutely had  
18 everything to do with her dying in the sweat lodge  
19 because she was more than that.

20 Do you remember that?

21 The question is, do you remember it?

22 **A. I remember that conversation. Not word**  
23 **for word.**

24 **Q.** Do you remember testifying to that  
25 yesterday?

1 **A. Not word for word.**

2 **Q.** To that effect?

3 **A. The effect was that, yes, it put her in a**  
4 **shameful state of mind that she felt she had**  
5 **something to prove.**

6 **Q.** Okay. And you believe that that in some  
7 way caused or contributed to the cause or  
8 contributed to her death; is that correct?

9 **A. Absolutely.**

10 **Q.** May I ask you, Ms. Haley, you -- before  
11 coming into court today, you've spoken obviously to  
12 Detective Surak and Detective Diskin and Polling  
13 back in October and December of '09; correct?

14 **A. Yes.**

15 **Q.** Can I ask you how many times you've  
16 spoken to Ms. Polk, the prosecutor in this case?

17 **A. During this case?**

18 **Q.** Anytime during the pendency of this case.

19 **A. Every day that I've been here, and I**  
20 **talked to her once on the phone prior to the case.**

21 **Q.** So how many times would you estimate?  
22 Would that be about two or three times?

23 **A. How many times I've been in here? Three?**  
24 **Four? And once or twice. Because she was on the**  
25 **phone when we did our interview. I didn't talk to**

1 **her. I talked to her four times.**

2 **Q.** Okay. I want you to exclude the  
3 interview. I'm talking about times you've spoken  
4 to Ms. Polk when no one from the defense was  
5 present.

6 **A. Once.**

7 **Q.** That was on the phone?

8 **A. Right.**

9 **Q.** And then every day during court and every  
10 day during court, you've also spoken to her. And  
11 I'm asking specifically about this case, not about  
12 the weather.

13 **A. Right. Right.**

14 **Q.** Now, has the state ever talked to you  
15 about its theory, about participants' state of  
16 mind?

17 **A. No.**

18 **Q.** Nothing like that?

19 **A. I barely -- I get, like, five minutes of**  
20 **her time and felt like I didn't even know her**  
21 **when -- when you guys were -- you and Sheila were**  
22 **talking to me the first day. I'd never met her.**

23 **Q.** When you say "Sheila" -- I'm sorry to  
24 interrupt.

25 Go ahead and finish, please.

1 **A. That's it.**

2 **Q.** When you said "Sheila," you do mean  
3 Ms. Polk; correct?

4 **A. Right.**

5 **Q.** And so your testimony is that you've  
6 never spoken to -- let me expand that a bit.

7 Have you spoken to Ms. Polk or anyone  
8 from the Yavapai County Attorney's Office about the  
9 state's theory in this case that the participants'  
10 state of mind contributed to cause of death?

11 **A. No.**

12 **Q.** That was just something that you came up  
13 with yesterday; is that correct?

14 **A. Not yesterday. That day.**

15 **Q.** The day on October 8?

16 **A. Right.**

17 **Q.** Okay. And so let me go back, then, to  
18 what you believed that night.

19 You've told us now several times  
20 yesterday and several times this morning that you  
21 simply did not have an idea of what caused these  
22 people's death and injuries; correct?

23 **A. Correct.**

24 **Q.** Let me now ask you --

25 **A. You asked did I know; right? That was**

1 **the question?**

2 **Q.** Idea, belief, thoughts.

3 **A. I have ideas and thoughts that day.**

4 **Q.** Okay. And some of the ideas and thoughts  
5 that you had that day, and I'm going to  
6 refer -- and if you need to look at the transcript,  
7 I'd be more than happy to give it to you.

8 On October 8 you shared and you told  
9 Detective Surak you actually thought it was an  
10 innocent accident.

11 MS. POLK: Objection. Misleading.

12 MS. DO: Inconsistent statement, Your Honor.

13 THE COURT: With the foundation of the  
14 testimony you intend to impeach. Without that, it  
15 would -- the objection would be sustained.

16 **Q.** BY MS. DO: I -- all right. Let me ask  
17 you this question. Again, yesterday several times,  
18 and today you've indicated to us, under oath, that  
19 you did not have an idea of what caused the deaths  
20 and the injuries of these people on October 8;  
21 correct?

22 **A. No. I had ideas. I didn't know.**

23 **Q.** Let me ask you this, then: One of the  
24 ideas you had that night was that it was an  
25 innocent accident; correct?

26

1 **A. There is no time I said innocent**  
2 **accident. I said it was an accident.**

3 **Q.** You've never said it was an innocent  
4 accident?

5 **A. I don't remember saying that, and I may**  
6 **have said it that day.**

7 MS. DO: Your Honor, at this time may I  
8 approach the witness with Exhibit 723?

9 THE COURT: Yes.

10 **Q.** BY MS. DO: I'm going to hand you the  
11 transcript so the jury knows what we're looking at.  
12 It's the transcript of your interview on October 8,  
13 2009, with Detective Steve Surak at Angel Valley.

14 Now, if you look at page 4.

15 Counsel, it's line 27 continuing on to  
16 page 5, line 4.

17 MS. POLK: Your Honor, may the state have a  
18 moment before Ms. Do continues?

19 THE COURT: Yes. Find the place.

20 MS. DO: Page 4, line 2, going to page 5,  
21 line 4.

22 **Q.** Ms. Haley, let me ask you this question  
23 while the state is reviewing this transcript.

24 You do understand that this was a  
25 statement that was audio recorded by the sheriff's

1 department; correct?

2 **A. Yes. And I'm not fighting. I said it.**

3 **Q.** I'm not -- try and listen to the  
4 question. This will go a little quicker.

5 You understand that this statement that  
6 I'm now referring to is a recorded statement that  
7 the sheriffs made that the state provided to the  
8 defense. Do you understand that?

9 **A. Yes.**

10 **Q.** All right.

11 Ms. Polk, are you ready?

12 MS. POLK: Yes. Thank you.

13 **Q.** BY MS. DO: And my question is, now  
14 having reviewed the transcript, Detective Surak  
15 asked you that night, do you think something went  
16 wrong? And you answered, apparently something went  
17 wrong, but I think it's innocent, whatever it is  
18 that went wrong; correct?

19 **A. I think it's innocent, whatever it is**  
20 **that went wrong.**

21 **Q.** Correct. And then after he asked you  
22 that, you then actually told him that you thought  
23 it was something that was put onto the rocks;  
24 correct?

25 **A. No. I -- you know, you keep putting**

28

1 **words in my mouth here. And I said it may be this,**  
2 **it may be that. I don't know what it is. I know**  
3 **he purposely didn't go and kill these people.**

4 **Q.** Ms. Haley, let me rephrase the question.  
5 I'm not trying to put the words in your mouth. You  
6 have the transcript in front of you.

7 **A. You're even changing the words that I say**  
8 **there.**

9 **Q.** Ms. Haley --

10 THE COURT: We're going to have a question.  
11 We're going to stop. And Ms. Do is going to ask a  
12 question. And, Ms. Haley, you will answer the  
13 question. Okay?

14 THE WITNESS: Okay.

15 MS. DO: Thank you, Your Honor.

16 **Q.** That night did you believe -- among the  
17 ideas and thoughts that you entertained, did you  
18 believe that night that it could have been  
19 something put on the rocks?

20 **A. Yes.**

21 **Q.** And that's what you told the detective;  
22 correct?

23 **A. Yes.**

24 **Q.** Now, when you were interviewed by  
25 Detective Diskin and Polling on December 16, 2009,



1 you talked about those thoughts and those ideas  
2 again; correct?  
3 **A. Yes.**  
4 **Q.** And on December 16 in 2009, you  
5 again -- or rather, you continued to have that  
6 belief, that thought, that something was put on the  
7 rocks, and it was an accident; correct?

8 **A. Can you repeat that question?**

9 **Q.** Yes. On December 16, 2009, when you  
10 spoke to Detective Diskin and Polling, even on that  
11 day, months, months after this had happened, you  
12 continued to entertain the thought, the belief,  
13 that something was put on the rocks and it was an  
14 accident; correct?

15 MS. POLK: Your Honor, objection to what this  
16 witness believed. That is not relevant.

17 THE COURT: Overruled.

18 **Q.** BY MS. DO: Could you answer the  
19 question. Would you like me to repeat it?

20 **A. Yes.**

21 **Q.** Yes, you did entertain the --

22 **A. Entertain the thought.**

23 **Q.** Correct. And you told the detective, and  
24 on that date that based upon what you'd seen, what  
25 you had observed of people coming out, that you

1 thought it might have been an accident and  
2 something was put on the rocks.

3 You gave them that idea; correct?

4 **A. Correct.**

5 **Q.** And right after you gave the detectives  
6 that idea, do you recall Detective Diskin and  
7 Polling then just going back and asking you about  
8 what happened with the wine and not following up?

9 **A. No. I don't remember.**

10 **Q.** Would it refresh your recollection to  
11 look at the transcript of that interview?

12 **A. Sure.**

13 MS. DO: May I have one moment, Your Honor?

14 THE COURT: Yes.

15 **Q.** BY MS. DO: Ms. Haley, I'm going to give  
16 you what's been marked as 655.

17 May I approach the witness, Your Honor?

18 THE COURT: Yes.

19 **Q.** BY MS. DO: I'm going to refer you to  
20 page 59. I'm going to have you review 59, starting  
21 at line 27, and going to page 60, ending at  
22 line 14; all right?

23 **A. Okay.**

24 **Q.** And now having read that, does it help  
25 refresh your memory as to a question and answer

1 that we went over yesterday where I asked you  
2 whether or not Melissa Phillips, when she came up  
3 to you, explained to you that she had these  
4 symptoms, that you told Ms. Phillips she should go  
5 to the hospital because you had heard carbon  
6 monoxide?

7 **A. Yes.**

8 **Q.** All right. So let's clear that up from  
9 yesterday.

10 **A. Okay.**

11 **Q.** Ms. Phillips walked up to you. This is  
12 after people are away from the scene of the sweat  
13 lodge. Some hours have passed. She tells you, I'm  
14 feeling nauseated and I'm feeling headachy;  
15 correct?

16 **A. Correct.**

17 **Q.** And you told her that she needed to go to  
18 the hospital, or you thought it was a good idea  
19 because you had heard carbon monoxide; correct?

20 **A. Correct.**

21 **Q.** So as you were explaining to  
22 Detective Diskin and Polling this idea, this  
23 thought, this belief, that you had, being a witness  
24 to this, that it was an accident, or you believed  
25 it was an accident and that you thought something

1 was put on the rocks, Detective Diskin then said, I  
2 don't want to interrupt you, but let's go back to  
3 the wine episode; correct?

4 **A. Correct.**

5 **Q.** And no further questions were asked of  
6 you about your belief that something might have  
7 been put on the rocks; correct?

8 **A. Yeah. I don't remember. But you have it  
9 here. I don't believe we went back to it.**

10 **Q.** And let me also ask you regarding the  
11 Hermia Nelson incident you spoke of yesterday. You  
12 had told the detective the name of this person,  
13 Hermia Nelson; correct?

14 **A. Correct.**

15 **Q.** And you also told him about another  
16 witness to that event -- Sandy Williams; correct?

17 **A. Correct.**

18 **Q.** Did the detectives ever ask you to  
19 provide contact information so they could follow up  
20 with the person who actually went through this  
21 episode?

22 **A. No.**

23 **Q.** Now, I'm going to move on and ask you  
24 specifically what you observed of the people who  
25 got ill. Okay?

1 You had indicated during direct testimony  
2 that somebody by the name of Josh Fredrickson got  
3 dragged out. Do you remember that?  
4 **A. Yes.**  
5 **Q.** You're certain of that?  
6 **A. Yes.**  
7 **Q.** And how many people dragged Josh?  
8 **A. Two.**  
9 **Q.** Two. And was he completely out when he  
10 was dragged out?  
11 **A. No. His eyes were open. He could talk.**  
12 **He just couldn't walk.**  
13 **Q.** So it would be untrue, then, if a witness  
14 said that Mr. Fredrickson actually came out of the  
15 sweat lodge during round seven on his own  
16 abilities?  
17 **A. That would be incorrect.**  
18 MS. POLK: Your Honor, I have an objection to  
19 that question.  
20 THE COURT: As argumentative.  
21 What's the basis?  
22 MS. POLK: As argumentative and improper.  
23 THE COURT: Sustained.  
24 The answer to that last question is  
25 stricken.

1 **Q.** BY MS. DO: So it would not be your  
2 recollection that Josh Fredrickson walked out of  
3 round seven on his own volition?  
4 **A. Correct.**  
5 **Q.** It wouldn't be your recollection that  
6 Josh Fredrickson came out of round seven to help  
7 another woman that wanted to come out?  
8 **A. That would be incorrect. Yes.**  
9 **Q.** Now, you also recalled, I believe, a  
10 girlfriend who came out and asked you if she should  
11 go back in. Do you remember that?  
12 **A. Yes.**  
13 **Q.** I know that you didn't talk about it here  
14 in court. But it was something you had mentioned  
15 before. Do you remember the name of the  
16 girlfriend?  
17 **A. Melissa.**  
18 **Q.** That's Melissa Phillips?  
19 **A. Yes.**  
20 **Q.** And when she came out, you had indicated  
21 she was perfectly coherent; correct?  
22 **A. When she -- she walked out.**  
23 **Q.** On her own?  
24 **A. On her own.**  
25 **Q.** And she was perfectly coherent?

1 **A. Not perfectly coherent when she walked**  
2 **out, but when she was cooled off.**  
3 **Q.** Okay. Have you previously said she was  
4 perfectly coherent?  
5 **A. Yes. Not right then.**  
6 **Q.** Okay. And Melissa Phillips, in that  
7 state that you described as being coherent, asked  
8 you if she should go back in; right?  
9 **A. Right.**  
10 **Q.** And you decided because she's an adult  
11 and she was coherent, that that was her decision;  
12 right?  
13 **A. Right.**  
14 **Q.** And you let her go back in?  
15 **A. I said, I don't know.**  
16 **Q.** And you just -- you decided not to  
17 interfere and you let her back in?  
18 **A. Yeah. I stayed out of it.**  
19 **Q.** You also talked about a person named  
20 Dennis Mehravar. May I ask you a few questions  
21 about him? He came out and you stated that he was  
22 vomiting; correct?  
23 **A. Correct.**  
24 **Q.** And you also told this jury -- and again,  
25 I understand that you have no medical background.

1 Correct?  
2 **A. I'm not sure what that means.**  
3 **Q.** It means you're not a doctor, you're not  
4 a nurse?  
5 **A. Right. Correct.**  
6 **Q.** But you told this jury yesterday under  
7 direct examination that Mr. Mehravar came out, was  
8 vomiting, and I believe you said, some time passed,  
9 20 to 30 minutes had passed while he was cooling  
10 off. Correct?  
11 **A. Correct.**  
12 **Q.** At some point you hear him saying, I'm  
13 having a heart attack; correct?  
14 **A. Not correct.**  
15 **Q.** You didn't ever hear that?  
16 **A. My heart, my heart.**  
17 **Q.** That's what he said?  
18 **A. Right.**  
19 **Q.** Not I'm having a heart attack?  
20 **A. I don't remember --**  
21 **Q.** All right.  
22 **A. -- that.**  
23 **Q.** I'm sorry. Then you told this jury  
24 that -- and I'm trying to recall your words. I  
25 think you actually said his heart stopped. It

1 stopped moving?  
 2 **A. Correct.**  
 3 **Q.** Is that right?  
 4 **A. Correct.**  
 5 **Q.** Now, at the time that Mr. Mehravar was  
 6 out, were you observing that his heart had stopped  
 7 moving, Lisa Rondon, who is a registered nurse, was  
 8 outside; is that correct?  
 9 **A. She was in front. She was by his face.**  
 10 **Q.** And Melinda Martin was also there;  
 11 correct? And you know she's certified in CPR?  
 12 **A. I didn't know then.**  
 13 **Q.** All right. And so when you felt that his  
 14 heart stopped, you must have screamed this man's  
 15 heart has stopped; right?  
 16 **A. No. I didn't scream.**  
 17 **Q.** Did you say it?  
 18 **A. No. I didn't have time. They were in**  
 19 **front of me. They knew.**  
 20 **Q.** Were they doing CPR on him?  
 21 **A. No, he was back quickly.**  
 22 **Q.** So his heart just stopped for how long,  
 23 Ms. Haley?  
 24 **A. Thirty seconds to a minute.**  
 25 **Q.** Isn't it simply true that Mr. Mehravar

1 was having a panic attack?  
 2 **A. I don't know.**  
 3 **Q.** Now, you talked about Liz Neuman coming  
 4 out of the ceremony. Dream Team members had to  
 5 take her out; correct?  
 6 **A. Correct.**  
 7 **Q.** She was in really bad shape; correct?  
 8 **A. Correct.**  
 9 **Q.** Now, you had said that you then tried to  
 10 cool her off, but you couldn't get the hose over.  
 11 So what you did was you took two cups of water and  
 12 you poured it on her chest; correct? That was the  
 13 extent of your ability to cool her off; correct?  
 14 **A. I could have gone for more cups.**  
 15 **Q.** But you didn't; right?  
 16 **A. Right.**  
 17 **Q.** And the cups -- the size of the cups that  
 18 you had indicated, you picked up the ones that are  
 19 in front of you on the witness stand, and those  
 20 look about -- I think they're 12. You said 12 to  
 21 14 ounce; correct?  
 22 **A. Correct.**  
 23 **Q.** And that was it; correct?  
 24 **A. Correct.**  
 25 **Q.** Now, you also, I believe, had stated

1 before that you tried to give Liz a cup of water to  
 2 drink as well?  
 3 **A. I don't remember that.**  
 4 **Q.** Do you remember saying that you tried to  
 5 give Liz a cup of water and she said to you huh-uh?  
 6 **A. No. I don't remember.**  
 7 **Q.** Go ahead.  
 8 **A. I won't contest that. I mean, that would**  
 9 **be something I would do.**  
 10 **Q.** I appreciate you're not contesting it.  
 11 But I don't want to put words in your mouth. Do  
 12 you remember saying that or not?  
 13 **A. No.**  
 14 **Q.** Would it refresh your recollection to  
 15 look at your transcript?  
 16 **A. Sure.**  
 17 **Q.** You have it in front of you. It's the  
 18 December 16, 2009, transcript. If you would look  
 19 at page 49, beginning at line 4 to 5. And let me  
 20 know when you've had a chance to review.  
 21 **A. Right. I don't --**  
 22 **Q.** Let me ask you this: Having been able to  
 23 review your own transcript, Ms. Haley, do you now  
 24 recall telling the detectives that there is Liz  
 25 Neuman, and I just had a cup of water for her, and

1 I hear her go huh-uh?  
 2 **A. No. Uh, uh, moaning. I put the glass of**  
 3 **water -- the cup of water on her, and she, uh, uh.**  
 4 **Q.** I understand that.  
 5 **A. Okay.**  
 6 **Q.** But she was able to give you an audible  
 7 response of some kind; correct?  
 8 **A. She was just moaning. She wasn't giving**  
 9 **me a response.**  
 10 **Q.** I see.  
 11 **A. She was just moaning, like, that the**  
 12 **whole time. It wasn't over me bringing a cup of**  
 13 **water.**  
 14 **Q.** All right. I understand. Thank you for  
 15 the clarification.  
 16 So she is, at this point, breathing;  
 17 correct?  
 18 **A. Yes.**  
 19 **Q.** And you indicated that you did not hose  
 20 her down; correct?  
 21 **A. Correct.**  
 22 **Q.** And I think you said you were the hose  
 23 girl so you kind of had custody of the hose, so to  
 24 speak; correct?  
 25 **A. Correct. Except at this time I didn't.**

1 **Somebody had taken the hose at that time too, and**  
2 **it wasn't reaching everybody.**

3 Q. It didn't reach Liz Neuman; correct?

4 A. **Correct.**

5 Q. Otherwise you would have used it?

6 A. **I would have tried. I didn't have the**  
7 **hose at the time.**

8 Q. Okay.

9 A. **I put --**

10 Q. Go ahead.

11 A. **I had put down the hose because I**  
12 **couldn't reach the people.**

13 Q. Right.

14 A. **So then I started doing cups.**

15 Q. Right.

16 A. **And then the hose wasn't there. So**  
17 **somebody must have taken it at that time.**

18 Q. Okay. But initially when you tried, you  
19 couldn't reach with it?

20 A. **Right.**

21 Q. Now, let's move to James Shore. And by  
22 the way, you had indicated yesterday that at a  
23 distance from the Judge to the state's table, you  
24 were able to hear somebody inside the sweat lodge  
25 scream, who you later found out was Lou Caci, that

1 somebody had fallen into the pit; correct?

2 MS. POLK: Your Honor, Objection. Misstates  
3 the testimony.

4 THE COURT: The question can be answered yes  
5 or no. That is an appropriate way to answer. If  
6 it cannot be answered yes or no, then that's the  
7 way to answer.

8 THE WITNESS: Okay. Can you reask?

9 Q. BY MS. DO: Sure. Tell me if I'm wrong,  
10 but I believe yesterday you testified that from the  
11 distance you indicated to this jury, from the Judge  
12 to the state's table, where you were standing to  
13 the sweat lodge, at that distance you were able to  
14 hear somebody inside the sweat lodge say somebody  
15 fell into the pit or burned themselves. Correct?

16 A. **Yes.**

17 Q. Who you later found out was Lou Caci;  
18 correct?

19 A. **That he was the one injured.**

20 Q. Right. No problems hearing that at that  
21 distance; correct?

22 A. **Not at that time.**

23 Q. Now, did you at any time, outside the  
24 sweat lodge ceremony, hear somebody say inside Liz  
25 Neuman needs help?

1 A. **No. I didn't hear a name. I heard, you**  
2 **need to get her out. And I don't know who.**

3 Q. Was that once?

4 A. **Once that I heard.**

5 Q. All right. But you never heard anyone  
6 say specifically Liz Neuman needed to come out;  
7 correct?

8 A. **Correct.**

9 Q. You also never heard anyone say James  
10 Shore needed help; correct?

11 A. **Correct.**

12 Q. Now, when you saw Mr. Shore -- I want to  
13 ask you because you said under direct examination  
14 you saw foaming at the mouth; correct?

15 A. **Correct.**

16 Q. And it was significant foaming; correct?

17 A. **I don't know what significant is. So --**

18 Q. I didn't just choose that word out of  
19 thin air. I used it because I believe when I  
20 interviewed you on December 16, 2010, I asked you  
21 and you said it was significant. Do you recall  
22 that?

23 A. **Yes.**

24 Q. So when you saw Mr. Shore outside the  
25 sweat lodge ceremony, and it was obvious that he

1 was down, the first thing you noticed, he was the  
2 foaming at the mouth?

3 A. **Correct.**

4 Q. Because it was really strange to you;  
5 correct?

6 A. **Correct.**

7 Q. And you described it to me is as  
8 significant foam?

9 A. **Correct.**

10 Q. In fact, you saw that and you started  
11 saying something like he looks like he's drowning;  
12 correct?

13 A. **Correct.**

14 Q. And you didn't know where that was coming  
15 from, but it was coming out of his mouth; correct?

16 A. **Correct.**

17 Q. And, again, with Mr. Shore you indicated  
18 that you did not -- having the hose earlier, you  
19 did not hose down Mr. Shore down; correct?

20 A. **Hose didn't reach.**

21 Q. The hose didn't reach him where he was;  
22 correct?

23 A. **Correct.**

24 Q. And because the situation was immediately  
25 apparent to you as being critical, people were

1 doing CPR, you didn't bother to go get cups of  
2 water like you did with Liz Neuman?

3 **A. I went to get James Ray.**

4 **Q.** I understand. Did you ever put any water  
5 on Mr. Shore?

6 **A. No.**

7 **Q.** Okay. Now, you do remember that at some  
8 point, a doctor by the name of Jean Armstrong was  
9 helping Mr. Shore and Ms. Brown; correct?

10 **A. Correct.**

11 **Q.** And she did identify herself as a doctor;  
12 correct?

13 **A. Correct.**

14 **Q.** And she was making sure everybody was  
15 doing CPR correctly?

16 **A. Correct.**

17 **Q.** Ms. Polk asked you yesterday if you had  
18 any recollection of Mr. Shore's temperature, and  
19 you said you had none; correct?

20 **A. That I didn't remember.**

21 **Q.** Let me ask you now about Ms. Brown. And  
22 we're almost done, Ms. Haley. You also indicated  
23 that when you saw Ms. Brown outside the sweat lodge  
24 ceremony again, the situation appeared critical to  
25 you; correct?

1 **A. Correct.**

2 **Q.** People were doing CPR; correct?

3 **A. Correct.**

4 **Q.** You noticed the same thing about  
5 Ms. Brown that you did with Mr. Shore. That there  
6 seemed to be something going on with water;  
7 correct?

8 **A. Correct.**

9 **Q.** And with Ms. Brown, what you heard was a  
10 gurgling sound; correct?

11 **A. Correct.**

12 **Q.** And it was coming from the stomach area;  
13 correct?

14 **A. Correct.**

15 **Q.** And it actually caused you alarm, and you  
16 said, what the hell is this water?

17 **A. Correct.**

18 **Q.** And you described it as being a lot of  
19 gurgling. You could hear it all the way along her  
20 breathway and into the stomach; correct?

21 **A. Correct.**

22 **Q.** And Ms. Brown also -- because the hose  
23 didn't reach, you also didn't hose her down;  
24 correct?

25 **A. Correct.**

1 **Q.** You also did not take cups of water in  
2 any way and cool her off in that fashion; correct?

3 **A. I didn't have time.**

4 **Q.** All right. We began with me asking you  
5 whether or not you took your role as a Dream Team  
6 member seriously and you paid attention. And you  
7 said you did; correct?

8 **A. Correct.**

9 **Q.** You stayed alert?

10 **A. Correct.**

11 **Q.** Was your job to watch what was going on  
12 from the outside? Correct?

13 **A. Correct.**

14 **Q.** And to listen to what was going on;  
15 correct?

16 **A. Outside. Correct.**

17 **Q.** And at no time did you ever hear anyone  
18 inside the sweat lodge saying, so-and-so is  
19 unconscious; correct?

20 **A. Correct.**

21 **Q.** You never heard that word; correct?

22 **A. Correct.**

23 **Q.** And while we're on that word, let me go  
24 back to when Mr. Ray had a sweat lodge orientation,  
25 when you gathered and talked about the experience

1 from the Vision Quest and Mr. Ray moved into  
2 instructions. Okay?

3 **A. Okay.**

4 **Q.** You had told Ms. Polk that Mr. Ray had  
5 said to expect vomiting; correct?

6 **A. Correct.**

7 **Q.** And to expect, I think, people saying  
8 weird things; correct?

9 **A. Correct.**

10 **Q.** But Mr. Ray never said to you or to  
11 anyone in that room expect that people would go  
12 unconscious; correct?

13 **A. I don't remember.**

14 **Q.** I mean, would that be alarming to you if  
15 somebody said expect someone to go unconscious?

16 **A. All of it was alarming. So --**

17 **Q.** So at this point you don't remember him  
18 saying the word "unconscious" or not?

19 **A. Correct.**

20 **Q.** So it's possible that Mr. Ray never said  
21 to you expect that people would go unconscious?

22 **A. Correct.**

23 **Q.** Okay. Now, going back to the sweat lodge  
24 ceremony, you've already told this jury you never  
25 heard anyone from inside the sweat lodge ceremony

1 say so-and-so is unconscious; correct?

2 **A. Could you repeat that question.**

3 **Q.** You never heard anyone from inside the  
4 sweat lodge ceremony say so-and-so is unconscious;  
5 correct? It's the same question I asked you.

6 **A. Correct.**

7 **Q.** And you also never heard anyone inside  
8 the sweat lodge ceremony say so-and-so has passed  
9 out; correct?

10 **A. Correct. All I heard was somebody needed**  
11 **to get out. I didn't know why.**

12 **Q.** Okay. Because, Ms. Haley, my last  
13 question to you is this: If you had heard somebody  
14 inside the sweat lodge ceremony say somebody is  
15 unconscious or somebody is dying, what would you  
16 have done?

17 **A. I would have tried to help, but I**  
18 **certainly wouldn't have opened the door and gone in**  
19 **the sweat lodge to do anything. Because James is**  
20 **in there.**

21 **Q.** So you would -- I understand. It's your  
22 testimony to this jury, that you would not -- you  
23 would do what you can, but you wouldn't go as far  
24 as to help or to save somebody if you heard those  
25 words?

1 **A. I don't know that I would be the one to**  
2 **save. I would feel that there were people there to**  
3 **do it and I would just get in the way. I mean --**

4 **Q.** You wouldn't --

5 **A. If I saw somebody -- if I saw somebody**  
6 **not getting help that needed help, I would help.**

7 **Q.** Right. That's a different question.

8 **A. Right.**

9 **Q.** My question is this --

10 **A. So, no.**

11 **Q.** My question is, if you were outside the  
12 sweat lodge ceremony and you heard something that  
13 indicated to you that there was a life-threatening  
14 situation going on inside that ceremony, like  
15 so-and-so is unconscious or so-and-so is dying,  
16 you're telling this jury that you would not do  
17 anything -- let me try and understand this.

18 You would not stop the ceremony. Is that  
19 your testimony?

20 **A. If I heard somebody was dying?**

21 **Q.** Yes.

22 **A. I would.**

23 **Q.** If you heard somebody was unconscious,  
24 would you stop the ceremony or try?

25 **A. No.**

1 **Q.** Thank you.

2 I have nothing further, Your Honor.

3 Thank you.

4 THE COURT: Thank you, Ms. Do.

5 Ms. Polk, redirect?

6 MS. POLK: Yes, Your Honor. Thank you.

7 REDIRECT EXAMINATION

8 BY MS. POLK:

9 **Q.** Good morning, Ms. Haley.

10 **A. Good morning.**

11 **Q.** Would you tell the jury what you did hear  
12 from your position outside. What did you hear from  
13 the inside throughout the sweat lodge ceremony?

14 **A. I heard that somebody needed to get out.**  
15 **I heard chanting. I heard the screaming, somebody**  
16 **is on fire, they were on the rocks. Those are the**  
17 **different things.**

18 **Q.** When was it that you heard that someone  
19 needed to get out?

20 **A. Around the same time that Lou was on the**  
21 **rocks. So there was, like, two things being**  
22 **screamed at once. We should get her out. Lou is**  
23 **getting out. So I focused on Lou, and I didn't**  
24 **know if somebody else came out, I guess. Because**  
25 **I'm not the only one tending.**

1 **Q.** When you were outside the sweat lodge  
2 throughout that ceremony, how busy were you?

3 **A. Can you repeat that.**

4 **Q.** How busy were you throughout Mr. Ray's  
5 entire sweat lodge ceremony at your position  
6 outside?

7 **A. Very busy at the end. From the middle to**  
8 **the end, very busy.**

9 **Q.** Were you in a position always to hear  
10 what was going on inside?

11 **A. No.**

12 **Q.** Why not?

13 **A. You couldn't hear everything.**

14 **Q.** You told Ms. Do that you would not open  
15 the door and interrupt Mr. Ray's ceremony if you  
16 had heard somebody was unconscious. Why not?

17 **A. Because he had specified to expect**  
18 **anything that -- I don't remember if he said passed**  
19 **out. But he said, expect anything could happen.**  
20 **People could say crazy things. They can throw up,**  
21 **that all these things were normal. And James --**  
22 **you don't go against James.**

23 **Q.** What do you mean by that? You don't --  
24 and, again, you mean Mr. Ray?

25 **A. Mr. Ray, James Ray.**

1 Q. What does that mean, you don't go against  
2 Mr. Ray?

3 A. **Well, we believed and trusted in his**  
4 **teachings and we believed and trusted --**

5 MS. DO: Your Honor, I'm going to object, and  
6 ask the witness to limit it to her beliefs and not  
7 others.

8 THE COURT: Sustained.

9 Q. BY MS. POLK: What did you believe?

10 A. **I believed that we were safe and he would**  
11 **keep us safe. And if somebody needed to get out,**  
12 **he would tell us to get them out, which is what he**  
13 **had with Lou.**

14 Q. And why did you believe that, Ms. Haley?

15 A. **Because he was my teacher and my mentor.**

16 Q. In answering some questions from Ms. Do  
17 about the various courses you had taken, you agreed  
18 with her that they were wonderful, empowering, and  
19 stated that you had completed a number of events.

20 You've just told the jury that Mr. Ray  
21 was your mentor. Did that have something to do  
22 with the other classes that you had taken and that  
23 relationship?

24 A. **Yes.**

25 Q. And how so?

1 A. **I mean, I was committed for a year to**  
2 **doing all his stuff and all the seminars. And I**  
3 **believed he knew something that we didn't know. So**  
4 **I wanted to find out what it was. So I did**  
5 **everything really committed for a year.**

6 **After a year I started to not believe**  
7 **every word that came out. So he became less. And**  
8 **I was financially committed so I kept going to the**  
9 **ones I paid for. I couldn't get my money back.**

10 Q. The jury has heard testimony about the  
11 pillars of success. Are you familiar with that?

12 A. **Yes.**

13 Q. Can you tell them what that is.

14 MS. DO: Objection. Beyond the scope, Your  
15 Honor.

16 THE COURT: Sustained.

17 MS. POLK: Your Honor, on cross-examination,  
18 Ms. Do asked her about the courses she had taken,  
19 how she was introduced to Mr. Ray; had her tell the  
20 jury that all the courses were wonderful,  
21 empowering; that she completed a number of events,  
22 and had discussion about having paid ahead of time  
23 for two other events and including the Spiritual  
24 Warrior.

25 THE COURT: And, of course, what attorneys say

1 is not evidence in any way. You have to rely on  
2 your own memory as to what the evidence actually  
3 is.

4 Sustained.

5 Q. BY MS. POLK: Ms. Haley, with respect to  
6 the 2007 incident that you talked about, you were  
7 asked questions from Ms. Do about something called  
8 a "syntax"?

9 A. **Yes.**

10 Q. And are you familiar with the document  
11 called the "syntax" in 2009?

12 A. **Yes.**

13 Q. Did Mr. Ray conduct his events on time,  
14 on the same timeframe that is indicated in the  
15 syntax?

16 A. **No.**

17 Q. And what is your basis for saying that?

18 A. **Because we had to reorganize all the time**  
19 **and change the syntax and take stuff out. Because**  
20 **maybe an open mic ran longer or certain games**  
21 **lasted longer. For whatever reason, we'd get off**  
22 **schedule. So we would try to get back on schedule.**  
23 **So it changed a lot.**

24 Q. And then Ms. Do asked you about the  
25 arrangements that were made where you ended up

1 outside the sweat lodge ceremony in 2009 and other  
2 people ended up inside. You testified about Lisa  
3 Rondan. What do you recall about how it was that  
4 Lisa Rondan ended up outside as opposed to inside  
5 the sweat lodge?

6 A. **I don't recall.**

7 Q. With respect to Liz Neuman, do you recall  
8 any conversation that led to Liz Neuman having a  
9 place inside the sweat lodge?

10 A. **She wanted to go in.**

11 Q. And Ms. Do said to you in her  
12 cross-examination that, in fact, Liz Neuman had  
13 participated in the sweat lodge every year since  
14 2003 to 2009. Do you know if that's true?

15 A. **Yes.**

16 Q. Was there -- do you know if she was there  
17 every single year?

18 A. **Yes. That's hearsay -- yes.**

19 Q. Do you know that personally?

20 A. **She told me. I wasn't there. But she**  
21 **had told me.**

22 Q. And then you were asked some questions  
23 about doing CPR and told by Ms. Do that James Ray  
24 International had paid for employees to get CPR  
25 training.

1 At any time during the Spiritual  
 2 Warrior 2009 week, were you told who on Mr. Ray's  
 3 staff had training in CPR?  
 4 **A. No.**  
 5 **Q.** Did you have training from Mr. Ray in  
 6 CPR?  
 7 **A. No.**  
 8 **Q.** Do you know if any of the other Dream  
 9 Team members had training from Mr. Ray to do CPR?  
 10 **A. I do now. I didn't at the time.**  
 11 **Q.** And what do you know now?  
 12 **A. I know that Lisa Rondan and Melinda and,**  
 13 **I believe, that the attorney, Do -- Ms. Do said**  
 14 **that all his staff was.**  
 15 **Q.** But do you know if that's true?  
 16 **A. No, I don't.**  
 17 **Q.** And do you even know if Lisa Rondan had  
 18 CPR training provided by Mr. Ray?  
 19 **A. No.**  
 20 **Q.** You agreed with Ms. Do that Josh  
 21 Fredrickson was an IT person. Did he have other  
 22 responsibilities that you observed during the week  
 23 of the Spiritual Warrior 2009 seminar?  
 24 **A. Yes. He helped guide and coordinate.**  
 25 **Q.** And then you made the statement to Ms. Do

58

1 that everybody needed approval from Mr. Ray for  
 2 everything.  
 3 **A. That's true.**  
 4 **Q.** Tell the jury what that means.  
 5 **A. That means there wasn't a decision to be**  
 6 **made outside of what we knew, that he needed to**  
 7 **approve of everything.**  
 8 **Q.** Mr. Ray?  
 9 **A. James Ray.**  
 10 **Q.** You discussed a little bit the head  
 11 shaving and your decision to give yourself a  
 12 haircut in 2007 and then what you did in 2009.  
 13 Do you know if Kirby Brown cut her hair  
 14 in 2009?  
 15 **A. Yes.**  
 16 **Q.** Who cut her hair?  
 17 **A. I did.**  
 18 **Q.** What day of the seminar -- what day of  
 19 the week did Kirby Brown cut her hair?  
 20 **A. Before the Vision Quest. The morning of**  
 21 **the Vision Quest. So that was Tuesday.**  
 22 **Q.** Was that Tuesday?  
 23 **A. Tuesday.**  
 24 **Q.** Kirby did not cut her hair on Sunday when  
 25 others did?

1 **A. No.**  
 2 **Q.** How did Mr. Ray react to those who chose  
 3 not to cut their hair on Sunday in 2009?  
 4 **MS. DO:** Objection to foundation, Your Honor.  
 5 **THE COURT:** Objection sustained as to  
 6 foundation.  
 7 **Q.** BY MS. POLK: In 2009, as a haircutter,  
 8 were you present when people were choosing not to  
 9 cut their hair?  
 10 **A. Yes.**  
 11 **Q.** And were you -- did Mr. Ray -- was  
 12 Mr. Ray also present?  
 13 **A. Yes.**  
 14 **Q.** And did you observe how he reacted to  
 15 those who chose not to cut their hair?  
 16 **A. Yes.**  
 17 **Q.** And how did he react?  
 18 **A. Encouraging.**  
 19 **Q.** In what way?  
 20 **A. Asking why they -- they would choose not**  
 21 **to. Just questions on why they're choosing not to**  
 22 **do it. And if you're going to commit, play full**  
 23 **on. Are you playing full on?**  
 24 **Q.** And Ms. Do asked you to agree with her  
 25 when she stated that the hair shaving had nothing

60

1 to do with attitudes of participants later inside  
 2 the sweat lodge. And you said, no, you could not  
 3 agree with that.  
 4 **A. Correct.**  
 5 **Q.** Why not?  
 6 **A. State of mind after your head's shaved.**  
 7 **Q.** What do you mean?  
 8 **A. I mean, if you shave your head, you feel**  
 9 **pretty vulnerable. You don't feel like yourself.**  
 10 **You're already --**  
 11 **MS. DO:** Your Honor, I'm going to object to  
 12 this whole line as speculation.  
 13 **THE COURT:** Overruled.  
 14 You may answer.  
 15 **THE WITNESS:** I'm a hairdresser. I know how  
 16 people are about their hair. I've dealt with them  
 17 for 28 years. I've never shaved any heads except  
 18 for there. And there is a state of mind that goes  
 19 along with shaving your head, especially if you're  
 20 a woman.  
 21 **Q.** BY MS. POLK: You were asked by Ms. Do if  
 22 you knew that the Samurai Game was a game that  
 23 Mr. Ray had learned from AT&T.  
 24 Do you know that?  
 25 **A. I don't know that. I heard that.**



1 Q. And do you know if the way Mr. Ray  
2 conducted his Samurai Game at Spiritual  
3 Warrior 2009 was the same way that AT&T plays the  
4 game?

5 A. I have no idea. No.

6 Q. Do you know whether Mr. Ray is licensed  
7 by the Samurai Game?

8 MS. DO: Objection, Your Honor. Relevance.

9 THE COURT: Sustained.

10 Q. BY MS. POLK: Can you tell the jury what  
11 you observed among the participants during the  
12 Samurai Game with respect to the level of intensity  
13 of the game.

14 A. The level of the intensity was very big.

15 Q. What do you mean?

16 A. I mean, the book thing with the arms and  
17 having two teams back you and -- and it was hurting  
18 them. They almost, like, would pass out and we're,  
19 like, go. And then they'd come back up and do it  
20 some more.

21 It became just a very painful thing to  
22 watch. And intense because you knew how much pain  
23 they were in. So it created a very intense  
24 environment with that much pain.

25 Q. You were asked questions from Ms. Do

1 about whether or not participants could get up to  
2 use the bathroom. And I want to direct your  
3 attention to a different session that involved  
4 Holotropic breathing.

5 A. Yes.

6 Q. Do you recall that?

7 A. Yes.

8 Q. Were you present for sessions in 2009  
9 when Mr. Ray led the participants in Holotropic  
10 breathing?

11 A. Yes.

12 Q. Were participants who were engaged in  
13 Holotropic breathing allowed to get up to use the  
14 restroom?

15 A. I would think so.

16 Q. Do you personally know that?

17 A. No.

18 Q. With respect to the Samurai Game and  
19 participants who had been declared dead, were they  
20 allowed to move?

21 A. No.

22 Q. Were they allowed to just get up and go  
23 use the restroom?

24 A. No. I believe they could raise their  
25 hand.

1 Q. Did you assist anybody in using the  
2 restroom during the Samurai Game?

3 A. Kirby just telling her to go. But no.

4 Q. When you told Kirby to go, was that  
5 during the game?

6 A. It was at the end.

7 Q. Was the game over?

8 A. Yes.

9 Q. You were asked many questions about the  
10 gathering that the women had while the participants  
11 were out on the Vision Quest and the conversation  
12 that you all had or conversations you all had with  
13 Mr. Ray. And in response to a question, you said  
14 that Mr. Ray said to you all he was disappointed  
15 with you. Do you recall that?

16 A. Yes.

17 Q. Do you recall why Mr. Ray said he was  
18 disappointed with you?

19 A. That we knew -- we -- we know better than  
20 that. And he was really unhappy that he felt that  
21 we weren't holding sacred space.

22 He felt extremely disappointed in the way  
23 we had handled the whole event, not just that. But  
24 now he said that we weren't being conscious during  
25 the classroom when he was teaching. And there was

1 wrapping noises during his story taking, that he'd  
2 heard from the Dream Team members, including  
3 myself.

4 Q. And Liz Neuman was present for that?

5 A. Yes.

6 Q. You did not agree with Ms. Do when she  
7 asked you a question stating that Mr. Ray's  
8 comments and that episode with him did not affect  
9 Liz Neuman in the sweat lodge. Do you recall that?

10 A. Can you repeat that?

11 Q. Yes. That was a bad question.

12 A. Okay.

13 Q. Do you recall Ms. Do asking you whether  
14 the confrontation or the conversation with Mr. Ray,  
15 when you ladies were drinking wine, affected Liz  
16 Neuman in the sweat lodge?

17 A. And I said, absolutely.

18 Q. Tell the jury how absolutely it affected  
19 Liz Neuman in the sweat lodge.

20 A. She felt less than.

21 MS. DO: Your Honor, I'm going to object.  
22 This is speculation.

23 My question to the witness is whether the  
24 belief would be inconsistent with what she told the  
25 detectives that night.

1 But to try and guess what Liz Neuman was  
 2 thinking, is speculation.  
 3 THE COURT: Sustained.  
 4 MS. POLK: Your Honor, may I be heard?  
 5 THE COURT: Yes.  
 6 MS. POLK: The statement by Ms. Do had nothing  
 7 to do with the officers. The statement by Ms. Do  
 8 to the witness was, you don't believe that Liz was  
 9 feeling -- that Liz feeling shameful had everything  
 10 to do -- I'm sorry.  
 11 You don't believe that --  
 12 THE COURT: Counsel, please approach.  
 13 (Sidebar conference.)  
 14 THE COURT: Okay. When you have hours-long  
 15 cross-examination to keep track of the subjects, it  
 16 helps to preface. But I don't want to have that  
 17 much discussion in front of jury. If we need to go  
 18 into this.  
 19 Ms. Polk, again your question?  
 20 MS. POLK: Ms. Do opened the door to this.  
 21 They stated to the witness, you don't believe that  
 22 Liz feeling shameful had anything to do with her --  
 23 THE COURT: Just a second. Ms. Polk is a  
 24 little bit loud for the witness there.  
 25 MS. POLK: The question or the statement

1 really from Ms. Do, you don't believe that Liz felt  
 2 shameful, had anything to do inside the sweat lodge  
 3 with what happened to Liz? And the witness said, I  
 4 do believe that it did.  
 5 So Ms. Do opened the door. And I'm  
 6 entitled to ask the witness what when she said, I  
 7 do believe so.  
 8 THE COURT: True.  
 9 MS. DO: Thank you, Your Honor.  
 10 MS. POLK: I repeated that statement she made  
 11 on the stand yesterday to inquire regarding an  
 12 inconsistent statement. Obviously to allow this  
 13 witness to go on about her opinion about what was  
 14 going on in the mind of Liz Neuman is speculation.  
 15 It's misleading and it's a 403 issue.  
 16 My questions to her were very clearly  
 17 regarding what she told the detectives that night,  
 18 which was clearly inconsistent with the testimony  
 19 she offered yesterday.  
 20 THE COURT: Well, the questions were asked and  
 21 the answers are right and to go into why. It's not  
 22 normally an appropriate avenue.  
 23 Other than -- is there any purpose,  
 24 Ms. Polk, other than an opening-the-door kind of  
 25 situation when really a situation where an answer

1 has already been given clearly?  
 2 MS. POLK: Judge, first of all, I don't  
 3 believe this was in connection with this witness's  
 4 testimony to officers. Ms. Do was questioning her  
 5 specifically about the wine incident and was not  
 6 referring to any discussion with officers. The  
 7 door was opened. The -- I objected, Your Honor.  
 8 THE COURT: I know.  
 9 MS. POLK: You overruled my objection. The  
 10 witness was allowed to answer, and the door has now  
 11 been opened. I'm entitled to ask her what did you  
 12 mean when you say you do believe it had something  
 13 to do with what happened to Liz Neuman?  
 14 I objected, and she was allowed to  
 15 answer. The door has been opened.  
 16 THE COURT: That's my recollection.  
 17 Ms. Do?  
 18 MS. DO: Yes, Your Honor. I began my  
 19 cross-examination this morning by asking her, her  
 20 testimony was she had no idea what happened on  
 21 October 8?  
 22 That she is now under the belief that all  
 23 these various events that the prosecutor walked her  
 24 through on direct -- the haircut, the Samurai Game,  
 25 obviously the import of that -- all goes to state

1 of mind.  
 2 That is directly inconsistent with the  
 3 witness's statement on October 8 that she believed,  
 4 one, it was an innocent accident, and, two, that it  
 5 had to do with chemical fumes.  
 6 It was clearly a setup for inconsistent  
 7 statement to allow, again, Your Honor, this witness  
 8 to go in and render an opinion about actually what  
 9 was going on in Ms. Neuman's mind. It is a 403  
 10 issue. It's speculation.  
 11 THE COURT: But you -- whether it's setting up  
 12 for an inconsistent statement or not, the question  
 13 was asked. Ms. Polk objected. Going into state of  
 14 mind -- and I let you ask the question. And at  
 15 this point: There can be a question. It can be --  
 16 but I don't want on and on.  
 17 MS. DO: Yes, Your Honor. Sorry to interrupt.  
 18 I think we need a limiting instruction.  
 19 I don't want this jury thinking this witness is  
 20 competent and can render an opinion about what Liz  
 21 Neuman's state of mind is.  
 22 THE COURT: You asked the question.  
 23 You're saying it's okay to say he didn't  
 24 have any idea what it was. You wanted to get down  
 25 a state of mind to show that or that she was

1 unclear. But then you ask the question to do that.

2 To set that up.

3 You know, very difficult case. There is  
4 no guidance for these kinds of things. The door  
5 was -- it was your question, Ms. Do. It just was  
6 your question for whatever reason. The state  
7 objected.

8 MR. KELLY: May I have a moment, Judge?

9 THE COURT: Yes.

10 MS. DO: Your Honor, Mr. Kelly is much more  
11 articulate than I am this morning. What I'm trying  
12 to explain to the Court, my question went to this  
13 witness's state of mind. Ms. Polk's question is  
14 now having the witness opine about Liz Neuman's  
15 state of mind. There is a clear difference.

16 THE COURT: I think -- well, Ms. Polk, without  
17 the transcript right here, I don't remember exactly  
18 your question. I know that you objected. What was  
19 the question that you objected to?

20 I thought my recollection is that  
21 Ms. Do's question was rather general, whether that  
22 had any impact why someone stayed in the lodge.

23 MS. POLK: That's exactly what it was. It was  
24 a question to her saying you don't believe that the  
25 conversation over the wine or the incident itself

1 had -- you don't believe that Liz feeling shameful  
2 had anything to do with what happened to Liz Neuman  
3 inside the sweat lodge?

4 Again, I objected. She was allowed to  
5 answer. The door has been opened. And it's fair  
6 to ask this witness to explain her answer. That's  
7 what redirect and cross are about.

8 MS. DO: Just so that we're clear, Your Honor,  
9 those were not my words, that Liz Neuman felt  
10 shameful and that had an effect on her.

11 I was repeating what the witness had  
12 given me when I asked her, do you believe that it  
13 had anything to do with the sweat lodge ceremony,  
14 which she should have answered no. Because that  
15 would have been consistent with her previous  
16 statement because she answered that yes. Then I  
17 impeached her with an inconsistency.

18 This goes to credibility. This goes to  
19 her state of mind. The prosecution now is going to  
20 ask this witness for evidence regarding  
21 Ms. Neuman's state of mind. It is the form of the  
22 question that I'm objecting.

23 MS. POLK: Your Honor, I want to be heard.

24 THE COURT: That wasn't the objection  
25 originally.

1 Yes, Ms. Polk?

2 MS. POLK: If you are going to allow me to ask  
3 it, I won't go further. If you need further  
4 argument --

5 THE COURT: Yes. I do. Because first of all,  
6 I'm concerned that we're getting into this kind of  
7 testimony and getting further into it. And trying  
8 to apply a fair standard here. I'm considering  
9 everything. It's just -- it's really not.

10 It's just the door was absolutely opened.  
11 It was the defense that did that. That's true.

12 At this point it just has been covered so  
13 much. I'm looking at the overall balance and the  
14 nature of the evidence anyway.

15 Ms. Polk, so yes. If you have something.

16 MS. POLK: Yes, I do, Judge. Here's the  
17 problem: The other thing Ms. Do did on  
18 cross-examination was tried to suggest to the jury  
19 that the only thing this witness believed at the  
20 time was that somehow there were toxic fumes. And  
21 she did that using some statements from a much  
22 larger transcript.

23 This witness never said that was the only  
24 thing she believed. And, in fact, on  
25 cross-examination when asked by Ms. Do if she

1 believed the Samurai Game had something to do with  
2 what happened to Liz in the sweat lodge, she said  
3 yes.

4 Ms. Do is trying to lead the jury to  
5 believe -- I believe it should not be admissible.  
6 But it's being admitted what witnesses at the scene  
7 believed about what caused the incident. This  
8 witness at the scene in response to questions said  
9 she had heard people talking about carbon monoxide  
10 poisoning.

11 That was presented to Ms. Do -- to the  
12 jury as if this witness thought it was just an  
13 accident and there was somehow poisoning. That's  
14 not true. And this witness tried to say that in  
15 response to Ms. Do. She had lots of ideas about  
16 what went wrong.

17 MS. DO: I just want -- this is the state's  
18 audio recording, Your Honor. And I have listened  
19 to all of them. If the state feels that there is a  
20 statement in those transcript that contradicts what  
21 she said on cross, they should bring it out.

22 I will represent to the Court it is  
23 nowhere in any of the transcript. She said Samurai  
24 Game, the haircut, the Vision Quest, this wine  
25 episode had anything to do with what happened to

1 the people in terms of the death and injuries.

2 Again, usually I think the distinction is  
3 between her state of mind as it goes to credibility  
4 and bias. I think whether it's done directly, the  
5 import of the prosecutor's direct examination of  
6 all of these witnesses is to suggest that what  
7 caused these people to die is the state of mind as  
8 it had to do with the Samurai Game, as it had to do  
9 the Vision Quest or haircut.

10 I'm entitled to demonstrate through  
11 cross-examination that that's not what the witness  
12 thought on the night of the 8th.

13 THE COURT: The redirect can be geared to what  
14 she thought at the time she was offering up these  
15 possibilities.

16 Ms. Polk, that's where the question needs  
17 to be confined.

18 MS. POLK: Your Honor, to be clear --

19 THE COURT: Not what she thinks now.

20 Go ahead.

21 MS. POLK: I'll ask her, then, at the time did  
22 she think that what happened had anything to do  
23 with what happened to Ms. Neuman in the sweat  
24 lodge.

25 MS. DO: I would ask follow-up question, did

1 she ever say that, which she didn't.

2 THE COURT: I'll give you a follow up on that.

3 Confined to the time period, you can ask  
4 that, Ms. Polk.

5 (End of sidebar conference.)

6 THE COURT: Counsel.

7 MS. POLK: Thank you, Your Honor.

8 Q. Ms. Haley, talking about the Samurai  
9 Game, the incident in the dining room with Mr. Ray  
10 and then ultimately with what happened in the sweat  
11 lodge, did you think that the confrontation with  
12 Mr. Ray and the Dream Team members, including Liz  
13 Neuman, had anything to do with what happened to  
14 Liz Neuman in the sweat lodge?

15 MS. DO: Your Honor, objection. Request that  
16 that question be restricted to October 8, 2009.

17 THE COURT: To the time she was interviewed.  
18 Yes.

19 THE WITNESS: Yes.

20 Q. BY MS. POLK: And how so?

21 A. **With her crying and feeling insane that**  
22 **night, that what she learned and what she needed to**  
23 **do is to stand in her power. And then going --**  
24 **choosing to go in the sweat lodge, I believe she**  
25 **had something to prove to James Ray. That she was**

1 **more than that.**

2 Q. And that term, "you are more than  
3 that" -- is that a phrase that you have heard  
4 before?

5 A. **All the time.**

6 Q. From whom?

7 A. **James Ray.**

8 Q. You were asked questions from Ms. Do  
9 about your interview that night, the night of  
10 October 8, 2009, and what you said then about what  
11 could have happened.

12 You said to Ms. Do you had lots of ideas.  
13 Do you recall that?

14 A. **Yes.**

15 Q. What were those ideas?

16 A. **The ideas were that he was too strong**  
17 **with the people. They were too intimidated to make**  
18 **up their mind. And they wanted to make him proud.**  
19 **And they were a little too committed to him than to**  
20 **themselves.**

21 Q. And "he" and "him." Who are you  
22 referring to?

23 A. **James Ray. And the Dream Team members**  
24 **being scolded the night before, I could tell right**  
25 **away that their focus was on making James Ray happy**

1 **instead of focusing just on the participants.**

2 Q. You were asked some questions from Ms. Do  
3 about how Mr. Ray didn't say to them, well, you  
4 won't die in the sweat lodge. Do you recall that?

5 A. **Can you repeat that.**

6 Q. You were asked questions from Ms. Do  
7 about what Mr. Ray told participants before going  
8 inside the sweat lodge.

9 A. **Correct.**

10 Q. And one of the questions from Ms. Do was  
11 that Mr. Ray never told people that they wouldn't  
12 die?

13 A. **Correct. I said that or she asked that.**

14 Q. Yes. And your response was, well,  
15 Mr. Ray had said you're more than that?

16 A. **Correct.**

17 Q. What does you're more than that have to  
18 do with believing you won't die going into the  
19 sweat lodge?

20 MS. DO: Objection, Your Honor. That calls  
21 for speculation.

22 THE COURT: Sustained.

23 Q. BY MS. POLK: Did you believe, Ms. Haley,  
24 that participants in 2009 going into the sweat  
25 lodge would die?

1 **A. No.**  
 2 **Q.** And why not?  
 3 **A. Because I believed James Ray wouldn't let**  
 4 **that happen, that he structured everything in a**  
 5 **safe event, although I knew it was dangerous**  
 6 **already. So I didn't really know.**  
 7 **Q.** Did you believe that Mr. Ray would make  
 8 sure everybody was safe?  
 9 **A. Yes.**  
 10 **Q.** You were asked some questions about the  
 11 electrolytes and the water that were outside of the  
 12 sweat lodge area.  
 13 **A. Yes.**  
 14 **Q.** Under a tarp. Do you recall that?  
 15 **A. Yes.**  
 16 **Q.** Did you consume any of the electrolytes,  
 17 the water or the fruit?  
 18 **A. That day, no.**  
 19 **Q.** Did Dream Team members who did not go  
 20 inside the sweat lodge -- do you know if they  
 21 consumed the electrolytes or the water or the  
 22 fruit?  
 23 **A. I'm not aware that they did.**  
 24 **Q.** You have shared with the jury your  
 25 observations about what happened to specific people

1 inside the sweat lodge ceremony. Did you observe  
 2 anybody who did not go inside the sweat lodge --  
 3 did you observe anybody who did not go inside the  
 4 sweat lodge get sick?  
 5 **A. No.**  
 6 **Q.** I'm putting up on the overhead  
 7 Exhibit 146, Ms. Haley. You were asked a couple  
 8 questions about this.  
 9 **A. Yes.**  
 10 **Q.** And I just want to zoom in. How was this  
 11 tent or the tarps -- how were they being held down  
 12 on the outside?  
 13 **A. By rocks.**  
 14 **Q.** What kind of rocks?  
 15 **A. It looks like just plain outdoor rocks.**  
 16 **Q.** And in this photograph, can you see the  
 17 entryway or the door, the flap to get in and out?  
 18 **A. I believe it's in front of what I think**  
 19 **is Barbara Waters.**  
 20 **Q.** Will you point.  
 21 Are there rocks holding down the flap  
 22 from the outside?  
 23 **A. Yes.**  
 24 **Q.** Do you know how those rocks got there?  
 25 **A. No.**

1 **Q.** You were asked about the incident with  
 2 somebody who thought about going back into the  
 3 sweat lodge and then changed her mind. Do you  
 4 recall that?  
 5 **A. Yes.**  
 6 **Q.** Who was the woman? What was her name?  
 7 **A. The first round?**  
 8 **Q.** Yes.  
 9 **A. I don't know her name.**  
 10 **Q.** You told the jury that Marta held the  
 11 woman at the door.  
 12 **A. Yes.**  
 13 **Q.** When that occurred, could you hear what  
 14 Mr. Ray was saying to the woman?  
 15 **A. No.**  
 16 **Q.** How long was the woman held at the door  
 17 near Mr. Ray before she was released?  
 18 **A. About a minute and a half. She pulled**  
 19 **away.**  
 20 **Q.** Did you observe Mr. Ray during that  
 21 minute and a half?  
 22 **A. No.**  
 23 **Q.** Was it your testimony that Mr. Ray was  
 24 talking to the woman?  
 25 **A. Yes.**

1 **Q.** Do you know what he was saying to her?  
 2 **A. I know he was encouraging her to come in.**  
 3 **I don't know what he was saying then. I know what**  
 4 **he was saying when she was out.**  
 5 **Q.** And what was she saying when she was out?  
 6 **A. He was calling her name and asking her to**  
 7 **come back in. She could do it.**  
 8 **Q.** And what happened to her after she pulled  
 9 away from Marta? Where did she go?  
 10 **A. She came back down over by the -- where**  
 11 **the water was and just sat.**  
 12 **Q.** Did she ever go back in?  
 13 **A. No.**  
 14 **Q.** You were asked some questions about Lou  
 15 Caci and your surprise or your statement that Lou  
 16 went back into the sweat lodge ceremony. Do you  
 17 recall that?  
 18 **A. Yes.**  
 19 **Q.** What round did Lou Caci go back in?  
 20 **A. I believe around the sixth round.**  
 21 **Q.** And you tried to stop him?  
 22 **A. Yes.**  
 23 **Q.** And why?  
 24 **A. Because I didn't believe he was of a**  
 25 **right mind and he was injured.**

1 Q. How did you feel when you saw Lou go back  
2 in?  
3 MS. DO: Objection, Your Honor. Relevance.  
4 THE COURT: Sustained.  
5 Q. BY MS. POLK: You made the statement to  
6 Ms. Do that you were sure that Mr. Ray would not  
7 let Lou Caci back in. Do you remember that  
8 testimony?  
9 A. Yes.  
10 Q. Why were you sure of that?  
11 A. **Because it was dangerous for Lou to go**  
12 **back in.**  
13 MS. DO: Objection, Your Honor. Calls for  
14 speculation.  
15 THE COURT: Sustained.  
16 Q. BY MS. POLK: You were asked some  
17 questions by Ms. Do about conversations that you  
18 and I have had. Do you recall those questions?  
19 A. Yes.  
20 Q. Do you recall being interviewed by  
21 Ms. Do?  
22 A. Yes.  
23 Q. And when was that?  
24 A. **I believe she said December 16th, 2010,**  
25 **at the Thousand Oaks Police Department.**

1 Q. How long did Ms. Do and you talk then?  
2 A. **Two hours.**  
3 Q. And I have some questions about the hose  
4 and your efforts to cool various people.  
5 You've told the jury that the hose did  
6 not reach to where Liz Neuman was; is that correct?  
7 A. Yes.  
8 Q. After you -- you attended to Liz Neuman  
9 first?  
10 A. **A lot of us did all at one.**  
11 Q. When you left Liz, you went to attend to  
12 whom?  
13 A. **James Shore and Kirby Brown.**  
14 Q. Do you know if other people used efforts  
15 to cool Liz Neuman after you left her?  
16 A. **I left her with two Dream Team members.**  
17 **So I wasn't worried. She was breathing.**  
18 Q. Specifically efforts to cool her down  
19 with water, do you know what occurred after you  
20 left Liz Neuman?  
21 A. No.  
22 Q. With respect to James Shore, do you know  
23 if other people undertook efforts to cool James  
24 Shore?  
25 A. No.

1 Q. You don't know?  
2 A. **I didn't see any. We were too busy**  
3 **trying to get him to breathe.**  
4 Q. How many people were around James Shore  
5 and Kirby Brown when were you attending to them?  
6 A. **A few.**  
7 Q. About how many?  
8 A. **On the ground and standing up? Around**  
9 **five, six.**  
10 Q. And you told the jury that you did CPR  
11 for about 45 minutes?  
12 A. Yes.  
13 Q. Were you aware of what other people were  
14 doing around you during those 45 minutes?  
15 A. No.  
16 Q. You were asked by Ms. Do whether or not  
17 Mr. Ray ever told you that people would become  
18 unconscious in the sweat lodge, and you said you  
19 don't recall hearing that word.  
20 A. **I don't want to state that, because I'm**  
21 **not sure.**  
22 Q. Mr. Ray ever use the word "altered  
23 states"?  
24 A. Yes.  
25 Q. And in what context?

1 A. **Breathwork and the sweat lodge and**  
2 **meditations.**  
3 Q. What do you remember Mr. Ray saying about  
4 altered states inside the sweat lodge?  
5 A. **Could you be more specific.**  
6 Q. Before participants went into the sweat  
7 lodge in 2009, did Mr. Ray -- do you recall whether  
8 Mr. Ray talked to participants about experiencing  
9 an altered state inside the sweat lodge?  
10 A. Yes.  
11 Q. Do you recall what he said?  
12 A. **He said to expect anything. It gets**  
13 **pretty crazy, and they could expect anything to**  
14 **throwing up, to hallucinating, that it rocks in**  
15 **there. And his was the hottest. If they had done**  
16 **a sweat lodge before, they'd never done one as hot**  
17 **as the one he --**  
18 MS. POLK: Thank you, Ms. Haley.  
19 Thank you, Your Honor.  
20 THE COURT: Thank you, Ms. Polk.  
21 Ms. Do, you may recross on that very  
22 limited area we discussed at bench.  
23 MS. DO: Thank you.  
24 ///  
25 ///

## RECROSS EXAMINATION

1 BY MS. DO:  
 2 **Q.** Ms. Haley, Ms. Polk just asked you  
 3 regarding what beliefs you had on October 8, right  
 4 after this accident occurred, as to what caused  
 5 this tragedy; correct?  
 6 **A. Correct.**  
 7 **Q.** And my question is very specific. When  
 8 you talked to Detective Surak, you felt free and  
 9 comfortable to answer all his questions to tell him  
 10 the truth and the complete truth; correct?  
 11 **A. Facts. Right.**  
 12 **Q.** Right. Facts of what you observed and  
 13 what you thought; correct?  
 14 **A. Not what I thought. I limited to facts**  
 15 **because I didn't want it insinuate anything that I**  
 16 **didn't know.**  
 17 **Q.** All right.  
 18 **A. For a fact.**  
 19 **Q.** My question is, on October 8 when you  
 20 talked to Detective Surak and he asked you what  
 21 went wrong, you never mentioned anything about the  
 22 Samurai Game. You never mentioned to him about the  
 23 haircut. You never mentioned to him about this  
 24 wine episode that you're now telling this jury  
 25

1 affected Liz Neuman in the sweat lodge. Correct?  
 2 **A. Yes.**  
 3 **Q.** In fact, all you said to him was, quote,  
 4 all I can think of was there was something on  
 5 there. Meaning the rocks; correct?  
 6 **A. That is not all I said.**  
 7 **Q.** Well, then, let me have you look at your  
 8 transcript again. And I'm going to refer you to  
 9 Exhibit 723. Will you look at page 5, lines 7  
 10 through 12 for me.  
 11 **A. What number?**  
 12 **Q.** Page 5, lines 11 to 12. And you said to  
 13 Detective Surak when people were coming out, but I  
 14 don't know. All I can think of was there was  
 15 something on there. And you had previously been  
 16 talking about the rocks; correct?  
 17 **A. Correct.**  
 18 **Q.** Thank you.  
 19 I have nothing further, Your Honor.  
 20 THE COURT: Thank you.  
 21 Ladies and gentlemen, any questions for  
 22 this witness?  
 23 I see Ms. Rybar has one.  
 24 THE COURT: Counsel, please approach.  
 25 (Sidebar conference.)

1 THE COURT: As to question No. 1, any  
 2 objection?  
 3 MS. POLK: No.  
 4 MS. DO: No, Your Honor.  
 5 THE COURT: Question No. 2, any objections?  
 6 MS. POLK: No, Your Honor.  
 7 MS. DO: No, Your Honor.  
 8 THE COURT: Thank you.  
 9 (End of sidebar conference.)  
 10 THE COURT: Ms. Haley, I will ask the  
 11 questions. And the lawyers may want to follow up.  
 12 Okay?  
 13 THE WITNESS: Okay.  
 14 THE COURT: Is it your testimony that at the  
 15 prepping held prior to the sweat lodge  
 16 ceremony 2009, that James Ray stated that he did  
 17 not know how many rounds he was going to conduct in  
 18 the upcoming sweat lodge ceremony?  
 19 THE WITNESS: Correct.  
 20 THE COURT: Follow up, Ms. Polk?  
 21 MS. POLK: Yes, Your Honor. Just briefly.  
 22 FURTHER REDIRECT EXAMINATION  
 23 BY MS. POLK:  
 24 **Q.** Ms. Haley, before participants entered  
 25 the sweat lodge in 2009, were there two separate

1 briefings?  
 2 **A. Yes. One for the class and one for us.**  
 3 **Q.** And was there a second briefing for  
 4 participants down around the fire? Were more  
 5 things said by Mr. Ray then?  
 6 **A. Yes.**  
 7 **Q.** Were you there for that second briefing?  
 8 **A. Yes.**  
 9 **Q.** But --  
 10 **A. But I don't remember what was said**  
 11 **at -- during the fire.**  
 12 **Q.** Why not?  
 13 **A. I felt like -- I was unprepared and I was**  
 14 **late. I was just trying to get back in my rhythm**  
 15 **there so --**  
 16 **Q.** How late were you?  
 17 MS. DO: Objection. Goes beyond the scope.  
 18 THE COURT: Sustained.  
 19 MS. POLK: Thank you, Judge.  
 20 THE COURT: Follow up?  
 21 FURTHER RECROSS-EXAMINATION  
 22 BY MS. DO:  
 23 **Q.** Ms. Haley, the rounds conducted in 2009  
 24 were a total of eight, which was four shorter than  
 25 the one you did in 2007; correct?

1 **A. No. There were nine rounds.**  
 2 **Q.** You believe there were nine rounds?  
 3 **A. Yes.**  
 4 **Q.** Either way, shorter than the one  
 5 conducted in 2007; correct?  
 6 **A. Yes.**  
 7 **Q.** Thank you.  
 8 Nothing further, Your Honor.  
 9 THE COURT: Then the next question.  
 10 Ms. Haley, in the Samurai Game when a team lost a  
 11 member, where did they go and for how long?  
 12 THE WITNESS: They were dead. And they stayed  
 13 as long as -- they played dead until the game was  
 14 over. So it depended when, how long.  
 15 THE COURT: Follow up?  
 16 MS. POLK: Thank you, Judge.  
 17 FURTHER REDIRECT EXAMINATION  
 18 BY MS. POLK:  
 19 **Q.** Ms. Haley, when they were dead, where did  
 20 they go?  
 21 **A. Wherever they were at the time.**  
 22 **Q.** Were they allowed to move from where they  
 23 were when they were pronounced dead?  
 24 **A. If James Ray thought that they should be**  
 25 **moved, they would be moved.**

1 MS. POLK: Thank you.  
 2 THE COURT: Ms. Do?  
 3 MS. DO: No, Your Honor. Thank you.  
 4 THE COURT: Thank you.  
 5 At this time, Ms. Haley, you will be  
 6 excused from the proceeding. However, you will not  
 7 be permanently excused as a possible witness in  
 8 this case. You are subject to further recall.  
 9 Remember the rule of exclusion of  
 10 witnesses, meaning you cannot discuss your  
 11 testimony or this case with any other witness until  
 12 the trial is over.  
 13 It is a good idea not to talk to anyone  
 14 about the case until it is completed. However, you  
 15 can talk to the attorneys as long as another  
 16 witness is not present.  
 17 And I've already indicated I'm directing  
 18 that you be careful in what third parties you might  
 19 talk to. If there is a risk you might talk to  
 20 somebody or communicate via computer and that could  
 21 get to another witness, I'm directing that you not  
 22 engage in those communications as well.  
 23 Do you understand?  
 24 THE WITNESS: Correct.  
 25 THE COURT: Thank you. Wait just a minute.

1 I'm going to go ahead and announce the morning  
 2 recess. We'll take a relatively -- well, until 20  
 3 after. Little more than 10 minutes. Remember the  
 4 admonition. And we'll resume then.  
 5 Thank you.  
 6 (Recess.)  
 7 THE COURT: The record will show the presence  
 8 of the defendant, Mr. Ray, counsel, and the jury.  
 9 And Ms. Polk, you may call your next  
 10 witness.  
 11 Mr. Hughes.  
 12 MR. HUGHES: Thank you, Your Honor.  
 13 The state calls Dr. Nell Wagoner.  
 14 THE COURT: Please step to the front of the  
 15 courtroom where the bailiff is directing you and  
 16 raise you're right hand and be sworn by the clerk.  
 17 NELL A. WAGONER, M.D.,  
 18 having been first duly sworn upon her oath to tell  
 19 the truth, the whole truth, and nothing but the  
 20 truth, testified as follows:  
 21 THE COURT: Please be seated here to my right.  
 22 The bailiff will assist you.  
 23 Ma'am, would you please start by stating  
 24 and spelling you full name.  
 25 THE WITNESS: My in this matter is Nell Ann

1 Wagoner, N-e-l-l, A-n-n, last name W-a-g-o-n-e-r.  
 2 THE COURT: Thank you.  
 3 Mr. Hughes.  
 4 MR. HUGHES: Thank you.  
 5 DIRECT EXAMINATION  
 6 BY MR. HUGHES:  
 7 **Q.** Ma'am, can you tell us what you do for a  
 8 living?  
 9 **A. I'm a gynecologist.**  
 10 **Q.** And from what area of the country do you  
 11 come from?  
 12 **A. Juneau, Alaska.**  
 13 **Q.** How is our weather treating you so far  
 14 down here?  
 15 **A. It's wonderful.**  
 16 **Q.** Can you tell us, by way of background,  
 17 whether you attended an event out in Sedona,  
 18 Arizona, in October of 2009.  
 19 **A. Yes, I did.**  
 20 **Q.** And what event was that?  
 21 **A. Spiritual Warrior.**  
 22 **Q.** How is it that you came to attend the  
 23 Spiritual Warrior in 2009?  
 24 **A. I was doing a number of things to**  
 25 **personally overcome a -- a trauma in my life. And**



1 I had been to one of James's -- more than one  
2 previous seminars. When I spoke to him personally,  
3 he suggested that I attend that particular event.

4 Q. Do you recall how many prior seminars of  
5 Mr. Ray's you had attended?

6 A. I believe it was four.

7 Q. And do you remember the time period that  
8 you had attended those other seminars?

9 A. I started in December '08. And so it was  
10 10 months or so.

11 Q. A little less than a year?

12 A. Yes.

13 Q. You mentioned that you're a gynecologist?

14 A. Correct.

15 Q. Have you or do you deal with emergency  
16 medicine in your practice?

17 A. Only gynecological emergencies.

18 Q. Do you recall what time in October you  
19 arrived in Sedona? By "time," I mean the day of  
20 the week.

21 A. Oh, I think it was Saturday. I -- I'm  
22 not sure.

23 Q. When you arrived, did you know that the  
24 Spiritual Warrior event would involve a sweat  
25 lodge?

1 A. No.

2 Q. When you arrived, did you have a  
3 liability waiver that was presented to you?

4 A. Yes.

5 Q. And had a copy of that waiver been mailed  
6 to you previously?

7 A. Yes.

8 Q. Had you read the waiver?

9 A. Yes.

10 Q. When you signed the waiver, were you  
11 asked any questions about your physical condition?

12 A. I don't remember.

13 Q. Were you ever required to provide a  
14 physical or something signed by a doctor before you  
15 were allowed to participate in the Spiritual  
16 Warrior 2009?

17 A. No.

18 Q. Had you ever been in a sweat lodge prior  
19 to October of 2009?

20 A. No.

21 Q. While you were at the Spiritual  
22 Warrior 2009, did you have an opportunity to meet a  
23 woman by the name of Kirby Brown?

24 A. Yes, I did.

25 Q. What can you tell us as to how you met

1 her.

2 A. I revealed the nature of the difficulties  
3 I was attempting to deal with at Spiritual Warrior,  
4 and she came up to me and mentioned that her mother  
5 was a psychologist, that she dealt with issues  
6 similar to what I was facing.

7 She was very bubbly and enthusiastic and  
8 compassionate, told me I really needed to give her  
9 mother a call.

10 Q. Was that demeanor, the bubbly,  
11 compassionate demeanor --

12 MR. KELLY: Your Honor, objection. Relevance.

13 THE COURT: I didn't hear the question.

14 MR. HUGHES: I hadn't finished the question.

15 Q. Was that demeanor something you observed  
16 in Ms. Brown through the events, including at the  
17 sweat lodge?

18 MR. KELLY: Same objection, Your Honor.

19 THE COURT: Calls for a yes or no response.  
20 If it can be responded to in that fashion.

21 Overruled.

22 You may answer that, if you can.

23 THE WITNESS: Could you state the question  
24 again?

25 Q. BY MR. HUGHES: I can. The demeanor that

1 you mentioned -- was that something you observed in  
2 Ms. Brown throughout the week?

3 A. I had limited direct contact with her.  
4 But that was --

5 MR. KELLY: Your Honor, I object.

6 THE COURT: Sustained.

7 It really can call for yes or no, if  
8 possible.

9 Dr. Wagoner, if you cannot answer yes or  
10 no, you can let the lawyer know that as well.

11 Q. BY MR. HUGHES: Is that a question you  
12 can't answer with yes or no?

13 A. Yes.

14 Q. Can you tell us whether you had some  
15 opportunities during the week to observe Ms. Brown.

16 A. Yes.

17 Q. And on -- can you tell us what those  
18 opportunities were during the week when you did  
19 observe Ms. Brown's demeanor.

20 A. For example, at meals or just during  
21 breaks, talking to different people.

22 Q. Did she have a room somewhat near yours?

23 A. Yes. She was across the hall.

24 Q. At some point in the week did you  
25 participate in the Samurai Game?

1 **A. Yes, I did.**  
 2 **Q.** And in something called the "Vision  
 3 Quest"?  
 4 **A. Yes.**  
 5 **Q.** We've asked other witness about those.  
 6 So I'm going to move right to the chase. At some  
 7 point, did you learn there was going to be a sweat  
 8 lodge in the Spiritual Warrior 2009 event?  
 9 **A. Yes.**  
 10 **Q.** When did you first learn that?  
 11 **A. As I recall, it was fairly late in the**  
 12 **day of the sweat lodge. It was in the afternoon.**  
 13 **Q.** Was that after you had returned from the  
 14 Vision Quest?  
 15 **A. Yes.**  
 16 **Q.** Do you recall whether there was any  
 17 briefing to let you know that a sweat lodge was  
 18 coming?  
 19 **A. Yes, there was.**  
 20 **Q.** Can you tell us about that.  
 21 **A. They told us they were going to have a**  
 22 **sweat lodge and --**  
 23 **Q.** Let me, if I can, interrupt you. Do you  
 24 recall who told you that?  
 25 **A. James.**

1 **Q.** And by "James," are you referring to  
 2 whom?  
 3 **A. James Ray.**  
 4 **Q.** Please continue.  
 5 **A. He said that he was -- had done the sweat**  
 6 **lodges in the past, that it was going to be very,**  
 7 **very hot. He said that it was going to be hotter**  
 8 **than last year. That nobody had sweat lodges that**  
 9 **were hotter than his except maybe the Lakotas, or**  
 10 **even hotter than the Lakotas. I don't remember the**  
 11 **context. And they were crazy.**  
 12 **So he told us -- he stressed that it was**  
 13 **going to be very, very hot.**  
 14 **Q.** And can you tell us where that briefing  
 15 took place.  
 16 **A. In the conference room where we had our**  
 17 **sessions.**  
 18 **Q.** And is that -- do you recall if that was  
 19 a place called the "Crystal Hall"?  
 20 **A. I believe it was.**  
 21 **Q.** And were you told anything else by  
 22 Mr. Ray in the briefing about what you should wear,  
 23 or what you should eat or what you should drink?  
 24 **A. We were told not to eat lunch or we'd get**  
 25 **sick. We were told to hydrate well ahead of time.**

1 **And we were told to wear lightweight clothes or**  
 2 **swimsuit or shorts or something like that.**  
 3 **Q.** After the briefing was there some period  
 4 of time then for you to go change your clothes?  
 5 **A. Yes.**  
 6 **Q.** And if people chose to, was there time  
 7 for them to eat a lunch?  
 8 **A. Yes.**  
 9 **Q.** Did you have lunch that day?  
 10 **A. No.**  
 11 **Q.** And do you recall approximately when you  
 12 were to all report to begin the sweat lodge?  
 13 **A. I don't remember what time.**  
 14 **Q.** Was it in the morning? Was it in the  
 15 afternoon?  
 16 **A. It was -- it was later in the afternoon.**  
 17 **Q.** Sometime after lunch?  
 18 **A. Yes. I would -- yes. After lunch.**  
 19 **Q.** And Doctor, do you recall where you were  
 20 all told to report?  
 21 **A. To an area outside the sweat lodge.**  
 22 **There was a big field, and we congregated there.**  
 23 **Q.** Would you tell us what happened, then,  
 24 when you congregated down at the field.  
 25 **A. Everybody stood in a cirde, and I really**

1 **don't remember what the context of what was said at**  
 2 **the circle. It was preparation to go in as far as**  
 3 **attitude and what we were -- our intentions for**  
 4 **this process.**  
 5 **Q.** Do you recall who led that conversation?  
 6 **A. James.**  
 7 **Q.** And again, I apologize, ma'am. But there  
 8 are a few different Jameses -- witnesses and  
 9 whatnot.  
 10 **A. James Ray.**  
 11 **Q.** Okay. Mr. Ray. Do you recall whether  
 12 during that circle Mr. Ray had any other words or  
 13 comments about the conditions inside the sweat  
 14 lodge?  
 15 **A. Not that I recall.**  
 16 **Q.** Do you recall either at the briefing up  
 17 in that Crystal Hall or down at the -- outside the  
 18 sweat lodge, whether anyone expressed any potential  
 19 medical issues that they might experience inside  
 20 the sweat lodge?  
 21 **A. Yes. One woman said that she had high**  
 22 **blood pressure and asked whether or not she should**  
 23 **go in.**  
 24 **Q.** And did you recall if Mr. Ray responded  
 25 to that question?

1 **A. He said something to the effect that she**  
2 **should use her own judgment.**

3 **Q.** Do you recall what his demeanor was when  
4 he responded to the question?

5 **A. Not really.**

6 **Q.** Okay. At what place inside the sweat  
7 lodge were you sitting when you finally entered?

8 **A. When I entered, I was to the left of the**  
9 **opening.**

10 **Q.** And, Doctor, I placed on the overhead  
11 Exhibit 414. It's previously been admitted. If  
12 you were to look at this diagram, which is just a  
13 rough diagram, and assume that the entrance is the  
14 opening at the circle at the bottom.

15 Would you point out -- and you can do  
16 that by actually touching the monitor in front of  
17 you. Would you point out for us the location that  
18 you were sitting when you first entered the sweat  
19 lodge.

20 And how far would you reckon you were  
21 from the door to the sweat lodge when you were  
22 sitting inside?

23 **A. Just a very few feet. There was only one**  
24 **person between me and the flap, and he was the one**  
25 **who was delivering the stones to the fire pit.**

1 **Q.** And let's talk a little about the  
2 mechanics of the stones. Would you mark -- and I'm  
3 going to change the color here -- would you mark on  
4 that chart where that fellow was sitting that you  
5 just mentioned.

6 And do you recall what his name was?

7 **A. I want to say Aaron, bu I'm not sure.**

8 **Q.** Now, when stones were going to come in,  
9 did Aaron go outside to get them?

10 **A. Yes.**

11 **Q.** And how would he carry them into the  
12 sweat lodge?

13 **A. There was, like, a big fork that was used**  
14 **to push them forward.**

15 **Q.** Kind of like a pitchfork?

16 **A. Yes.**

17 **Q.** Can you show us on the chart -- and I'll  
18 change the color again -- where Mr. Ray was  
19 sitting, if you recall.

20 And was anyone sitting between Mr. Ray  
21 and the flap on that side of the sweat lodge?

22 **A. I don't think so. But I'm not absolutely**  
23 **sure.**

24 **Q.** Is it safe to say, then, that you were  
25 fairly close to where Mr. Ray was sitting?

1 **A. Yes, it is.**

2 **Q.** Do you recall how many rounds there were  
3 in the sweat lodge ceremony?

4 **A. Approximately eight.**

5 **Q.** And would you tell us very briefly what a  
6 round entailed. Was there any common length of  
7 time that you noticed between the rounds?

8 **A. No. It was -- there were prayers or**  
9 **songs or chanting or something, but my perception**  
10 **was that they were probably about equal lengths,**  
11 **but they seemed short to me. And the time we were**  
12 **in there, objectively, was longer than what I felt**  
13 **it was.**

14 **Q.** Did it feel like while you were inside  
15 the sweat lodge that your abilities to track time  
16 seemed to become impaired to some extent?

17 **A. Yes.**

18 **Q.** At any point in those eight rounds, did  
19 you leave the sweat lodge?

20 **A. No.**

21 **Q.** Were you allowed to bring water inside  
22 the sweat lodge?

23 **A. No.**

24 **Q.** Did someone tell you you couldn't bring  
25 water into the sweat lodge?

1 **A. They put a table out where you were to**  
2 **put your bottles and belongings. I don't remember**  
3 **whether specifically they said you can't or whether**  
4 **it was implied by the table to put your stuff here.**  
5 **Instructions.**

6 **Q.** Do you recall whether you did that, you  
7 left your water bottle?

8 **A. Yes. I did.**

9 **Q.** Did you see anybody bring a water bottle  
10 inside?

11 **A. No, I did not.**

12 **Q.** Can you tell us who controlled when a  
13 round would begin.

14 **A. James Ray.**

15 **Q.** And who controlled when a round would  
16 end?

17 **A. James Ray.**

18 **Q.** And who controlled how many stones would  
19 be brought inside between rounds?

20 **A. James Ray.**

21 **Q.** How would he do that?

22 **A. He would just indicate bring in "X"**  
23 **number of stones. I don't know how he decided how**  
24 **many.**

25 **Q.** Could you hear him giving a statement as

1 to the number of stones to bring in.  
 2 **A. Yes.**  
 3 **Q.** Did anybody put water on the stones once  
 4 they were brought inside?  
 5 **A. Yes. After the stones were in the pit,**  
 6 **James would walk over with a bucket of water and**  
 7 **douse it, and steam would rise up.**  
 8 **Q.** And do you recall approximately how many  
 9 times water was placed on the stones?  
 10 **A. Every time there was a new round.**  
 11 **Q.** Now, when stones were brought inside, did  
 12 you notice any difference in the temperature in the  
 13 area where you were sitting?  
 14 **A. Yes. It would get hotter.**  
 15 **Q.** And when water was placed on the stones  
 16 after they'd been brought inside, did you notice  
 17 any difference in the conditions inside the sweat  
 18 lodge?  
 19 **A. Well, it would get hotter.**  
 20 **Q.** Can you describe how much hotter it could  
 21 get.  
 22 **A. I can't tell you in degrees. It was**  
 23 **significantly hotter. It was noticeably hotter.**  
 24 **It was -- I've been in a steam room before, and it**  
 25 **was like when the steam comes on. It's noticeably**

1 **hotter.**  
 2 **Q.** At some point was some sort of, like, a  
 3 sandalwood or some sort of a plant material put on  
 4 the hot rocks?  
 5 **A. I don't remember.**  
 6 **Q.** Do you recall clouds of smoke or anything  
 7 like that inside side the sweat lodge?  
 8 **A. I don't remember clouds of smoke.**  
 9 **Q.** Do you recall any open flame, whatsoever,  
 10 inside the sweat lodge?  
 11 **A. No.**  
 12 **Q.** In fact, when the door was closed or the  
 13 flap was closed, what was it like inside?  
 14 **A. It was pitch black.**  
 15 **Q.** If there had been an open flame inside  
 16 that sweat lodge, would you have seen it?  
 17 **A. I would think so. But the pit was pretty**  
 18 **deep. I never -- I could not see into the pit from**  
 19 **where I was located.**  
 20 **Q.** And the pit that you're referring to, is  
 21 that the object marked approximately in the center  
 22 or slightly to the back of the center of the  
 23 exhibit on the monitor?  
 24 **A. Yes.**  
 25 **Q.** And you said it was pretty deep. At some

1 point did the pit start to get filled up with the  
 2 rocks that were being brought in?  
 3 **A. Again, I couldn't tell the depth. I just**  
 4 **know I couldn't -- I never did see the rocks.**  
 5 **Q.** Could you see any sort of a glow coming  
 6 from the rocks while they were brought in or once  
 7 they were in the pit?  
 8 **A. Yes.**  
 9 **Q.** And can you describe that for us.  
 10 **A. It just looked like a hot -- big, hot**  
 11 **coal.**  
 12 **Q.** At some point while you were inside the  
 13 sweat lodge, did you ever hear anybody inside  
 14 express a desire to leave?  
 15 **A. Yes.**  
 16 **Q.** Can you tell us when that took place.  
 17 **A. Well, people left during each round. At**  
 18 **the end of a round, people would leave each time.**  
 19 **But during the middle -- one of the middle rounds,**  
 20 **some people had to be dragged out because they were**  
 21 **unconscious. And during one of the middle rounds,**  
 22 **the flap was put down on the door and then it was**  
 23 **dark, and someone said, wait. There is one more.**  
 24 **And James said -- James Ray said, well, you will**  
 25 **have to wait until the next round.**

1 **Q.** And the comment, wait. There is one  
 2 more -- was that made after several people had been  
 3 dragged out?  
 4 **A. Correct.**  
 5 **Q.** And these people -- were they dragged  
 6 past near where you were sitting?  
 7 **A. Well, yes. Because I was sitting right**  
 8 **by the entrance.**  
 9 **Q.** Were you able to tell if they were  
 10 conscious or not?  
 11 **A. I saw ones that were not conscious.**  
 12 **Q.** At some point did you hear someone say  
 13 words to the effect, I'm going to die?  
 14 **A. Yes.**  
 15 **Q.** Can you tell us approximately what round  
 16 that occurred.  
 17 **A. I don't know. In the middle.**  
 18 **Q.** And do you recall from approximately  
 19 where you heard the, I'm going to die, come from?  
 20 **A. I heard it from someone who was outside**  
 21 **the tent.**  
 22 **Q.** And do you have an idea approximately  
 23 where on that chart the voice came from?  
 24 **A. Do you want me to touch?**  
 25 **Q.** If you can.

1 A. **It's --**  
 2 Q. Do you have any idea who that person was?  
 3 A. **No, I don't.**  
 4 Q. Do you recall whether the person said  
 5 anything other than, I'm going to die?  
 6 A. **I don't remember what was said. I'm**  
 7 **going to die was the most dramatic of the**  
 8 **statements.**  
 9 Q. Do you recall anything about the voice?  
 10 Was it a raised voice? Was it quiet voice? Was it  
 11 a shout that made that statement?  
 12 A. **It sounded like hysterical screaming.**  
 13 Q. And do you recall whether Mr. Ray  
 14 responded to that statement or similar statements  
 15 from that voice the outside the tent?  
 16 A. **Yes. He angrily said, get him out of**  
 17 **here, get him away.**  
 18 Q. Do you know who Mr. Ray was speaking to  
 19 when he said that?  
 20 A. **I interpreted it that he was speaking to**  
 21 **one of his Dream Team members or one of the helpers**  
 22 **outside the tent to remove this individual so that**  
 23 **they were out of earshot.**  
 24 Q. Did Mr. Ray stop the sweat lodge ceremony  
 25 at that point?

1 A. **No.**  
 2 Q. Did he if not stop it slow it down so he  
 3 could go check on the person?  
 4 A. **No.**  
 5 Q. Did he ever inquire after that about how  
 6 that person had done?  
 7 A. **Not to my knowledge.**  
 8 Q. Did you ever hear anyone else in distress  
 9 while were you still inside the sweat lodge?  
 10 A. **No.**  
 11 Q. After the person inside said, wait; there  
 12 is one more, were there several additional rounds  
 13 that took place?  
 14 A. **Yes.**  
 15 Q. Did you continue to see people being  
 16 dragged out after each of those rounds?  
 17 A. **Yes.**  
 18 Q. At any time did Mr. Ray leave the sweat  
 19 lodge to check on those people?  
 20 A. **No.**  
 21 Q. Did you ever hear him inquire as to how  
 22 those other participants were doing?  
 23 A. **No.**  
 24 Q. At some point did you see something that  
 25 led you to believe someone was trying to leave the

1 sweat lodge from an unapproved location, other than  
 2 the flap?  
 3 A. **I'm not quite sure how to answer this**  
 4 **question. At the time I did not know.**  
 5 Q. Well, let's go through it then step by  
 6 step. Did you see something out of the ordinary  
 7 that let light into the sweat lodge?  
 8 A. **Yes. There was a period during one of**  
 9 **the rounds when there was light that came in.**  
 10 Q. And can you point out for us on this  
 11 chart approximately where you saw the light come  
 12 in.  
 13 And at the time the light came in, can  
 14 you tell us was it a quick flash of light or was it  
 15 a prolonged amount of light? What can you tell us  
 16 about that?  
 17 A. **It was a sustained period of light.**  
 18 Q. And how did Mr. Ray respond, if he did,  
 19 at all, to that?  
 20 A. **He appeared to be very upset and angry.**  
 21 **He said, who has a flashlight? Turn off that**  
 22 **flashlight. This is a sacrilege. Hand it over**  
 23 **here to me.**  
 24 **And there was no response, either verbal,**  
 25 **that I remember. And nobody passed him a**

1 **flashlight.**  
 2 Q. At some point afterwards did you learn  
 3 whether there had been a flashlight in the sweat  
 4 lodge?  
 5 A. **There wasn't a flashlight. I understood**  
 6 **that one of the participants had actually rolled**  
 7 **out of the sweat lodge underneath the tent, and it**  
 8 **was the lifting up of the tent that caused the**  
 9 **light.**  
 10 Q. Do you recall whether someone sustained  
 11 any sort of a burn inside the sweat lodge?  
 12 A. **Yes.**  
 13 Q. What do you recall about that?  
 14 Starting with if you can recall,  
 15 approximately when during the sweat lodge ceremony  
 16 roundwise did that take place?  
 17 A. **Again, it was somewhere in the middle of**  
 18 **the rounds. And the person stood up and stumbled.**  
 19 **And I was aware that somebody was standing.**  
 20 **Somebody stumbled. I didn't realize that -- at**  
 21 **first that he'd fallen, evidently, into the pit or**  
 22 **onto some of the coals. And he exited the tent.**  
 23 **And I heard people say, oh. He's burned. He's**  
 24 **burned.**  
 25 **And I turned to James at that point and**

1 **said, he really needs to get ice on that right**  
 2 **away. And James Ray responded, it's taken of. We**  
 3 **have a nurse.**

4 **Q.** Did Mr. Ray ever go out and check on the  
 5 fellow who had fallen into the pit?

6 **A. No.**

7 **Q.** Did you ever hear Mr. Ray ask anyone  
 8 outside how that individual was doing?

9 **A. No.**

10 **Q.** Now, you mentioned that he fell into the  
 11 pit. Is it possible that Mr. Ray didn't know he  
 12 was injured --

13 **MR. KELLY:** Objection, Your Honor.

14 **THE COURT:** Sustained.

15 **MR. HUGHES:** Let me rephrase that then.

16 **Q.** How is it that you came to perceive that  
 17 this person had injured himself inside the sweat  
 18 lodge?

19 **A. I heard people say, oh. He's burned.**

20 **Q.** Did you hear the individual who was  
 21 burned make any statement or yell?

22 **A. Not to my knowledge.**

23 **Q.** Now, you mentioned that you stayed in the  
 24 same place where the little green dot is,  
 25 approximately; is that correct?

1 **A. Yes.**

2 **Q.** Were you sitting up the entire time?

3 **A. No.**

4 **Q.** At some point did you change your seating  
 5 position?

6 **A. I didn't change -- well, yes. I stayed**  
 7 **in the same location. But instead of sitting up, I**  
 8 **laid down.**

9 **Q.** Why is it that you laid down?

10 **A. Well, prior to the sweat lodge James had**  
 11 **instructed us that if it got really hot, it was**  
 12 **easier to breathe if your face was close to the**  
 13 **ground. And the tent edges would allow a little**  
 14 **bit of air to come in. I laid down in an attempt**  
 15 **to breathe better and to feel less heat.**

16 **Q.** Were there two rows of people in the area  
 17 that you were sitting, or was there only one row of  
 18 people?

19 **A. There were two rows.**

20 **Q.** Can you tell, us were you in the row  
 21 closer to the wall of the tent or to the row closer  
 22 towards the center of the tent.

23 **A. Closer to the wall of the tent.**

24 **Q.** At some point, going back to the fellow  
 25 who burned himself, were you aware of whether he

1 came back inside the sweat lodge?

2 **A. Yes. He did come back in a later round.**

3 **Q.** As a physician, did you have any concerns  
 4 about that?

5 **A. Yes, I did.**

6 **Q.** What were those?

7 **A. Well, if he was burned, to be exposed to**  
 8 **more heat would only exacerbate the burn.**

9 **Q.** Now, you mentioned earlier that keeping  
 10 track of time was a little difficult while you were  
 11 inside; is that correct?

12 **A. Yes.**

13 **Q.** Do you have any estimate of approximately  
 14 how long the sweat lodge ceremony took from its  
 15 beginning when the last person entered the sweat  
 16 lodge in the beginning to when this ceremony ended?

17 **A. At the time it felt fairly short. And I**  
 18 **was surprised later to learn that it was**  
 19 **approximately two hours.**

20 **Q.** And was it still light out when you  
 21 exited at the end of the sweat lodge?

22 **A. Yes, it was.**

23 **Q.** And did it stay light out for some period  
 24 of time afterward or did it start to get dark?

25 **A. It -- it stayed light.**

1 **Q.** And can you show us again on this chart  
 2 where you were sitting.

3 How were you instructed to leave the  
 4 sweat lodge?

5 **A. We were to leave in clockwise direction,**  
 6 **the same way we had come in. So by that method, I**  
 7 **was the last one to leave.**

8 **Q.** And when you were leaving the sweat  
 9 lodge, then, is that the first time that you were  
 10 able to experience the heating conditions in other  
 11 parts or zones, if you will, of the sweat lodge?

12 **A. Yes.**

13 **Q.** And would you draw for us, then, how you  
 14 exited the sweat lodge.

15 **A. I exited. And, quite frankly, I don't**  
 16 **remember whether I walked on the other side of the**  
 17 **pit or not. As I was walking, I realized there**  
 18 **were several people that were unconscious, and so I**  
 19 **went over to one to drag them out.**

20 **Q.** And can you -- I'll put a new color on  
 21 the screen.

22 Can you show us, if you would, where you  
 23 noticed the unconscious people.

24 **A. Okay. There was one here and there was**  
 25 **one over here and I think a couple in this area.**

1 Q. Okay. Now, for purposes of the record,  
2 if we were to look at this circle as the face of a  
3 watch with the entrance being 6:00 o'clock, can you  
4 give us approximately the locations on a watch face  
5 that the unconscious people were found by you.

6 A. **12:00 o'clock, 2:00 o'clock and**  
7 **3:00 o'clock.**

8 Q. Do you recall were they men or women or a  
9 mix of both?

10 A. **It was a mix of both.**

11 Q. Now, starting with this individual at the  
12 12:00 o'clock location, do you recall was that a  
13 man or a woman?

14 A. **That was a woman.**

15 Q. And then moving to the -- I guess to the  
16 2:00 o'clockish area, was that a man or a woman?

17 A. **I don't remember for sure.**

18 Q. And did you know the names of either of  
19 those two folks?

20 A. **I believe the one at 12:00 o'clock was**  
21 **Beverly or Bev.**

22 Q. And do you know Beverly?

23 A. **I don't know her. She was a nurse.**

24 Q. Okay. And how about the individual at  
25 the 2:00 o'clock location?

1 A. **I don't know.**

2 Q. And then how about the -- I think you  
3 indicated there may have been two or a couple  
4 individuals down here at the 3:00 or maybe 3:30  
5 location. Was that a man or a woman or both?

6 A. **Both were women. There was a man**  
7 **dragging one of the women out, and I tried to drag**  
8 **the other woman out, and she was too heavy. I**  
9 **couldn't. I couldn't move her. So I helped the**  
10 **man drag the other woman out.**

11 Q. Do you recall the names of either of the  
12 two women that you found there unconscious?

13 A. **I don't know who they were.**

14 Q. Do you recall what the name of the man  
15 was who was dragging one of those women out?

16 A. **I do not know who he was.**

17 Q. Now, you mentioned that you were trying  
18 to drag the woman out. Was that a location in the  
19 sweat lodge that you were able to stand all the way  
20 upright?

21 A. **I don't remember.**

22 Q. When you eventually got outside the sweat  
23 lodge, were you still dragging or helping the  
24 fellow drag the woman out?

25 A. **Yes. We dragged her outside the door.**

1 Q. Okay. Would you show us on this chart --  
2 I'll give you a new color. Would you show us on  
3 the chart approximately where you dragged the  
4 woman.

5 And approximately how far from the  
6 entrance was the location where you deposited her?

7 A. **A few feet.**

8 Q. And were you able to ascertain, was she  
9 still unconscious when she was brought outside?

10 A. **Yes.**

11 Q. How were you feeling at that point?

12 A. **I was very, very hot and weak. At the**  
13 **initial conclusion I was hot but felt okay. Once I**  
14 **went farther into the tent to help drag these**  
15 **people out, I was shocked at how it sapped my**  
16 **strength almost immediately. And so I could barely**  
17 **stand by the time we got her out.**

18 Q. And that's a good point.

19 And, Judge, I know it's noon. Do you  
20 want me to stop now?

21 THE COURT: Yes. Would you, please,  
22 Mr. Hughes. Thank you.

23 Ladies and gentlemen, Dr. Wagoner, we're  
24 going to take the noon recess at this time.

25 Dr. Wagoner, the rule of exclusion of

1 witnesses has been invoked. And that means you  
2 cannot talk about your testimony or this case with  
3 any other witness until it is over.

4 It's a good idea not to talk to anyone  
5 about the case until it is completed.

6 However, you can talk to the attorneys as  
7 long as another witness is not present.

8 Do you understand that rule?

9 THE WITNESS: I do.

10 THE COURT: Ladies and gentlemen, remember the  
11 admonition.

12 I'm going to ask everyone reassemble at  
13 1:30. We will start as soon as we can after that.

14 I'm going to ask the parties to remain a  
15 minute.

16 Everyone is excused except for the  
17 parties.

18 (Proceedings continued outside presence  
19 of jury.)

20 THE COURT: I'll note that the jury and the  
21 witness have left the courtroom.

22 I wanted to bring up a couple of things.

23 We had a lengthy bench conference, and  
24 again, we're trying to avoid that. But Ms. Do was  
25 examining. Actually, Ms. Polk was. And then there

1 was the objection.

2 I want to caution with regard to this  
3 impeaching with a prior inconsistent statement.  
4 It's not appropriate to set up a straw man to  
5 conduct impeachment. I just want to make that  
6 comment.

7 Ms. Polk and Mr. Hughes, also this court  
8 has to look at the evidence. Even though there may  
9 be some type of invitation or opening the door, the  
10 Court still has to evaluate the evidence and has to  
11 look at the overall fairness of the trial. So I  
12 want both people to think about that.

13 I don't want to have these issues come up  
14 regarding impeachment through prior inconsistent  
15 statement. I think we've gone through that enough.  
16 I just don't want to see that problem arise. And I  
17 want to avoid lengthy bench conferences.

18 With regard to the disclosure issue, I  
19 had a chance to look at the case a little more. I  
20 think it's factually distinguishable. It does not  
21 control the situation here. And I confirm the  
22 prior rulings.

23 But I'm going to say this: I'll direct  
24 these comment to the state. Because of the timing  
25 of the disclosure and the naming or listing of the

122

1 exhibits, because of that these kinds of issues may  
2 arise. And I'm meaning where there may be evidence  
3 that now is apparent to the defense that was not  
4 before.

5 And there may be incidents -- I'm not in  
6 any way trying to encourage this. I've got to  
7 apply Rule 15. But there may be instances where  
8 relevant evidence is disclosed late under the  
9 rules.

10 That's not going to excuse prompt  
11 disclosure under the Arizona rules, though. And  
12 that didn't happen in this instance.

13 I just wanted to make those comments.

14 Anything else before we recess, Counsel?

15 MR. LI: Your Honor, I have a quick matter in  
16 the interest of keeping the trial momentum moving  
17 and what have you.

18 I'm not sure that Mr. Mehravar -- Dennis  
19 Mehravar; is that right? Mr. Mehravar is listed  
20 for today. The state has indicated that it wants  
21 to play two tapes, two clips.

22 We've objected for a variety of reasons  
23 and communicated with the state last night. I had  
24 a back and forth about this particular issue.

25 And I don't think it's going to happen

1 today, but we wanted to raise it to the Court's  
2 attention that there is an outstanding issue  
3 relating to two clips that the state would like to  
4 play, that we listened to last night, and had an  
5 exchange about last night.

6 THE COURT: Can you just give me a brief  
7 summary in a couple of minutes what the issue  
8 appears to be.

9 MR. LI: One of them is objectionable as  
10 hearsay and relevance and a number of other  
11 grounds. And it, essentially, is a tape with  
12 Mr. Mehravar saying words to the effect of, this  
13 meditation I was doing -- I don't have it with me.  
14 But this meditation I was doing was very difficult,  
15 was very uncomfortable. I didn't like it. The  
16 second time I felt sort of a cramp while I was  
17 meditating.

18 Mr. Ray says something to the effect of,  
19 hey, look. You're going to have threshold  
20 experiences here. You need to -- you know -- push  
21 on it. Meditation is going to be good for you.  
22 And I want you to come out of this experience  
23 having -- you know -- had a wonderful meditation  
24 ceremony -- experience.

25 To our view, that's entirely irrelevant.

124

1 What Mr. Mehravar was doing -- I think it's  
2 probably Sunday, four days before the sweat lodge  
3 event -- and how he was feeling about his  
4 meditation and whether it was difficult or not  
5 difficult.

6 And what Mr. Ray said to him about  
7 whether he should keep meditating or not  
8 meditating, to me and to the defense, that's  
9 entirely irrelevant as to whether why Mr. Ray  
10 recklessly caused three people to die.

11 There are also hearsay objections  
12 imbedded in that. Essentially, it's a conversation  
13 between Mr. Ray and the state witness in which --  
14 you know -- the state witness is explaining what  
15 his particular problem is, and Mr. Ray is reacting  
16 to that.

17 And there is no real way to clean that  
18 up.

19 THE COURT: You've given me a summary.

20 What's the summary of your response to  
21 that?

22 Ms. Polk, please.

23 MS. POLK: Your Honor, the witness, I believe,  
24 we will get to this issue today. This will be the  
25 next witness after we're finished with Dr. Wagoner.



1 The witness is Dennis Mehravar. And he  
2 will testify about his experience during the  
3 Holotropic breathing, which is one of the earlier  
4 exercises, and how uncomfortable he was and how he  
5 just wanted to pull the headphones off and run.

6 He at an open-mic session tells that to  
7 Mr. Ray. And that's on the clip. And the response  
8 by Mr. Ray is that this -- what you have to do with  
9 the Holotropic breathing is what you have to do  
10 throughout this seminar -- is no matter how  
11 uncomfortable it makes you, you have to continue to  
12 push through so that you can have a breakthrough  
13 experience.

14 So it's very, very relevant to what  
15 everybody is being told and what the jury frankly  
16 has already heard about Mr. Ray's teachings. Which  
17 is no matter how uncomfortable you are, no matter  
18 what you're experiencing physically, you have to  
19 continue to push in order to have a breakthrough.

20 Your Honor, the state has two clips  
21 prepared. One has Mr. Mehravar's words on it where  
22 at the mic he says this is what I experienced.

23 If there is an objection to that, I've  
24 offered to the defence to just play Mr. Ray's  
25 response to it. So the state can do either.

1 Mr. Li had indicated to me last night  
2 that he felt there should be more context.

3 So we have the bigger tape. Obviously  
4 we'll lay the foundation through the witness. The  
5 state can go either way as to how much to play.

6 THE COURT: Well, as you know, the first part  
7 is going to be hearsay. To the extent it  
8 summarizes --

9 MS. POLK: It's not.

10 THE COURT: It may or may not be. It depends  
11 if there is present-sense impression, an expression  
12 of bodily condition, those things. It could be an  
13 exception.

14 That it's an at-the-mic kind of thing, I  
15 think it's going to raise the same issues that came  
16 up with regard to Liz Neuman and that excerpt. I'm  
17 mean, I'm sorry -- Kirby Brown.

18 MR. LI: I found the transcript. So I have  
19 it.

20 And actually, it is not a present  
21 sensations. He's talking about what happened to  
22 him in the morning on the open mic. Two, it's not  
23 about the breathing, Holotropic breathing. It's  
24 about what's called "Holosync", which is  
25 meditation. The state has that actually wrong.

1 He really is sitting there lying on a mat  
2 with earphones on, I think, and -- you know --  
3 meditating. And that's what he wants to take the  
4 earphones off and runaway screaming.

5 I would submit that that is a little bit  
6 of exaggeration or a little bit of hyperbole that  
7 as he's laying on the ground meditating, that this  
8 was a little difficult for him and he didn't want  
9 to continue doing it. It's a figure of speech.

10 I think -- you know -- we've had a lot of  
11 testimony about a lot of different things. And  
12 this one sure seems well beyond what's relevant for  
13 a manslaughter trial.

14 THE COURT: I haven't heard what the statement  
15 was from Mr. Ray. Can someone tell me?

16 MR. LI: Yeah. Essentially, he says --

17 THE COURT: If you're going to read it, please  
18 read it slowly.

19 MR. LI: I will read it slowly.

20 Mr. Mehravar -- I'm going to summarize  
21 Mr. Mehravar's testimony, unless you want it read.

22 THE COURT: I would like to get an idea.

23 MR. LI: Okay. He says, the first one we did  
24 this morning I feel really comfortable, and I was  
25 feeling really good, and I didn't want to actually

1 leave the meditation.

2 But this one, from the first moment, I  
3 thought, oh. Great. I can sleep for one more hour  
4 and start working on stuff. But I -- and then  
5 James makes a joke. You've been talking to Bill,  
6 another participant. And then there's some  
7 laughter.

8 But I couldn't -- I was very  
9 uncomfortable. I was so tight, I couldn't even  
10 breathe. I was just literally -- I was just  
11 literally -- had to have a hard time breathing.  
12 It felt like I was in a close space. The  
13 left side of my body was twisted and I couldn't  
14 stop. It was really weird, and I was hoping it  
15 would be over.

16 And now he's talking about meditation.

17 And it felt like it was going on for  
18 hours and hours. I just wanted to take the  
19 headphones off and run outside.

20 Threshold. You're not -- so how  
21 come -- that was Mr. Ray. Said threshold. You're  
22 not. Dennis says -- or Mr. Mehravar says, so how  
23 come?

24 Mr. Ray says, you're not recommended to  
25 do this more than one time a day. It's an

1 accelerated learning program. You're here. You're  
2 to push the threshold. It only gets better.

3 Mr. Mehravar says, thank you.

4 Mr. Ray says, it only gets better. And  
5 the only way to get beyond it is to go through it.

6 What you really want, Dennis is to come  
7 out of this desert with 10 times more than you can  
8 imagine. True?

9 So then you're going to have to be  
10 willing -- like you stood up here and said today,  
11 be uncomfortable and do things even when they're  
12 not fun, and to give up your free time and give up  
13 your sleep and to do these things that I wouldn't  
14 recommend you do at home necessarily.

15 But this is a controlled environment.  
16 The diet is the reason -- I'm sorry.

17 I'm speeding, aren't I?

18 I apologize, Mina.

19 And the diet is for a reason. And what  
20 you are doing is for a reason. And it will get the  
21 result. It really will. Okay? Yes.

22 And then somebody else picks up the mic.

23 THE COURT: Well, my initial thought is this  
24 excerpt doesn't raise the sixth amendment concerns  
25 that were present the last time. The person will

1 be here.

2 The first part of the statement, Dennis's  
3 part of it, is hearsay. The response is,  
4 essentially, relevant, the weight of it. What can  
5 be done on cross-examination in contrasting it,  
6 those are factual matters.

7 So if there is an objection to the first  
8 part, then that won't be played. There can be  
9 direct testimony on that as to what was presented.  
10 And that can be done that way.

11 I don't -- if it's going to be one of  
12 these situations where there is an objection  
13 presented and then there is impeachment, what was  
14 said on the tape that the state's offering to play,  
15 that will raise another question.

16 But that's where I think it would head.  
17 Unless you have some other authority that comes  
18 within the last discussion and it's relevant and  
19 goes to weight.

20 MR. LI: Well, I suppose the only thing you  
21 can do, Your Honor, to have -- without waiving any  
22 of our objections, the only thing you can do is to  
23 put the clip the state wants to play into context,  
24 is to play the part where Mr. Mehravar is talking  
25 about meditation so it's not taken out of context

1 and made to sound like they're standing at the gate  
2 of the sweat lodge and Mr. Ray is hollering at this  
3 fellow and telling him he's got to push and push  
4 and push.

5 THE COURT: If it's not put into context,  
6 there won't be proper foundation. I'll sustain  
7 objections to it.

8 Just to avoid having to do another 105  
9 instruction, it should be placed in a nonhearsay  
10 fashion. It would just eliminate that. And the  
11 context has to be brought out.

12 Of course, that can be done on cross, as  
13 well, if there hasn't been fairness, in your view,  
14 in how it's being presented.

15 But I would assume --

16 Ms. Polk, will you be conducting that?

17 MS. POLK: Yes.

18 THE COURT: I assume it would be set up at the  
19 full context. This wasn't the Samurai Game. This  
20 wasn't the breathing. This was meditation on  
21 Sunday.

22 MS. POLK: Correct, Your Honor.

23 And, again, the state will play the  
24 abbreviate portion of Mr. Ray only, if that's what  
25 the defense wants. If the defense wants Dennis

1 Mehravar's words played, we can play that as well.

2 THE COURT: Well, the defense has preserved  
3 its objection completely.

4 So, Mr. Li, which --

5 MR. LI: I think if we're going to play a  
6 portion of the tape, we have got to play the whole  
7 thing so that there is some context.

8 We preserve or objection to it as hearsay  
9 and all the other reasons. But you can't have this  
10 clip by itself in isolation and let the jury  
11 speculate what he's talking about.

12 THE COURT: It wouldn't be. It's a question  
13 whether or not the prelude is going to be through  
14 direct testimony or through the clip.

15 MR. LI: I think --

16 THE COURT: That's the question. Not that  
17 it's just going to be in the air with Mr. Ray's  
18 response. That's not going to happen.

19 MR. LI: There is more to it than just the  
20 foundation that Ms. Polk would lay.

21 I mean, there is -- the fact that this  
22 person -- this is the same person who is outside  
23 saying he's dying. And so he perhaps has a  
24 tendency even when talking about meditation to have  
25 a fairly floored way of discussing his issues.

1 And I think the fact of the matter is  
2 they need -- the jurors need to hear who this guy  
3 is and how he sounds when he's talking about this,  
4 and when Mr. Ray responds to him. It's not enough  
5 for Ms. Polk to simply say, sir, you were talking  
6 about meditation.

7 THE COURT: You've asked that it be played,  
8 and that's what's going to happen.

9 MR. LI: Thank you.

10 THE COURT: That's what is going to happen.

11 MR. LI: Thank you, Your Honor.

12 THE COURT: I gave you that option.

13 MR. LI: Just to clarify, the other issue,  
14 Your Honor, is that the state had wanted to play a  
15 part of what we'll call the "pregame speech"  
16 relating to the sweat lodge ceremony.

17 They had clipped it at a point where  
18 Mr. Ray said something like -- you know -- you're  
19 going to have to be okay with -- like something  
20 along the lines of you're going to have to be okay  
21 with dying. That's the value of this extreme  
22 exercise.

23 And the sentence isn't actually finished.  
24 Then the sentence then goes, because symbolically  
25 this is a really great metaphor for blah, blah,

1 blah.

2 So we would submit that you can't just  
3 play the part where he says -- you know -- you got  
4 to feel like you got to be okay with letting it go  
5 or dying or accepting that without the whole  
6 portion that follows immediately thereafter  
7 literally in the same sentence saying that the  
8 whole thing is symbolic and this is a great symbol  
9 for rebirth and et cetera, et cetera.

10 THE COURT: Isn't that what Rule 106 really  
11 contemplates?

12 MR. LI: I would think so.

13 THE COURT: I think so too.

14 MR. LI: And, Your Honor, just for  
15 efficiency's sake, perhaps we should just play the  
16 whole thing from the moment they saddle up and get  
17 in the conference room and Mr. Ray says, here's  
18 what's going to happen. It's going to be hot.  
19 It's going to feel like this. Here's how you get  
20 out.

21 And they just hear it all and we just  
22 play it. And then instead of clipping little  
23 portions and then having this thing where we're  
24 listening to clips at 9:00 o'clock at night trying  
25 to figure out if there is something else that needs

1 to be added to it.

2 THE COURT: What's your argument? Directly as  
3 to 106, what are you saying?

4 MR. LI: I would say we should play the whole  
5 thing.

6 THE COURT: Because?

7 MR. LI: Because the whole thing is in  
8 context. The --

9 THE COURT: Doesn't it say fair presentation?  
10 Isn't that the language of 106?

11 MR. LI: Yes, Your Honor.

12 THE COURT: You're saying that --

13 MR. LI: The fair presentation would be the  
14 entire time.

15 The man does not say go in there and die.  
16 The man says go in there. It's a great metaphor.  
17 If you can't handle it, if it doesn't feel right  
18 for you, you need to leave. Here's how to do it.

19 And that's the whole -- that's the fair  
20 presentation of the text, not little clips and  
21 snippets.

22 THE COURT: How long is the whole recording,  
23 Ms. Polk?

24 MS. POLK: Your Honor, that portion is about  
25 45 minutes. And the state will play the whole

1 clip. Counsel hasn't had a chance to catch up on  
2 emails since we've been in court all morning, but I  
3 had actually emailed in response that we would be  
4 willing to play the whole clip.

5 THE COURT: Okay. I think that's correct  
6 under 106 without listening to every minute of it  
7 now and deciding what really is necessary to a fair  
8 presentation -- it's stipulated.

9 MR. LI: And without waiving our various  
10 objections.

11 The last point I would want to make, Your  
12 Honor, is can we just play it once? I mean, I've  
13 done -- as a prosecutor.

14 I did a lot of cases with a lot of  
15 wiretaps and a lot of tapes. And we did not just  
16 keep playing tapes over and over, the same tape  
17 over and over.

18 What was your reaction to that? What was  
19 your reaction to that? We didn't do that. We just  
20 played the tape. The jurors got to hear it.

21 They got to evaluate the defendant's  
22 testimony or statements, out-of-court statements.  
23 They got to place whatever weight they wanted to  
24 place on it.

25 But the idea that we just are going to do

1 this. We literally, Your Honor, have a CD with, I  
2 think, 200, 300 clips on it. And then the state  
3 gives us -- you know -- the state gives us each  
4 day, oh. Here are the five clips we might play  
5 tomorrow.

6 So then we go back there and we try to  
7 figure out what these clips are.

8 THE COURT: But is this the issue that's been  
9 decided on the email, though, now?

10 MR. LI: I would have to look at my emails.

11 MS. POLK: Your Honor, first of all, what I  
12 have given Mr. Li are the clips that we would play  
13 through the witness for the week, not just for the  
14 day. But we will play the entire preswift lodge  
15 briefing.

16 There is other audio that is relevant.  
17 And as it becomes relevant, the state has to play  
18 it. And I think if there is objections at the  
19 time, the Court should address them.

20 THE COURT: There has to be notice of the  
21 clips so they can be addressed and the defense can  
22 figure out what a fair context would be -- fair  
23 presentation. That's one thing.

24 Let's return to what Mr. Li had brought  
25 up. And that is repeat playing. That hasn't

1 happened. I know what you're talking about. I've  
2 had instances where jurors will ask questions and  
3 want something played again. It happens. And then  
4 you have to decide if that's, essentially, an asked  
5 and answered. And you have to deal with that.

6 Of course, the jury is permitted to take  
7 evidence with them, obviously, and they can listen  
8 to it again. They can choose what evidence they  
9 want to listen to.

10 I think what you're saying, Mr. Li, is a  
11 good guideline.

12 And, Ms. Polk, you haven't had a chance  
13 to respond.

14 When I say "guideline," there may be  
15 instances it's appropriate if there is some  
16 limited -- very limited case that's in dispute  
17 somehow. I don't want to have a hard and fixed  
18 rule it never would happen.

19 Ms. Polk, if you could address that. And  
20 I would like to get to the recess here. Go ahead.

21 MS. POLK: Your Honor, I don't disagree with  
22 that. The state has not done that. And, again,  
23 should we attempt to do it, it will be because a  
24 particular clip is relevant.

25 And I am giving the defense notice a week

1 in advance with what clips we intend to use.

2 THE COURT: I'm talking about the 45-minute  
3 preparation session. To then have it played once  
4 and then repeat it with witnesses here and there,  
5 that's something I believe should be avoided.

6 It just emphasizes a particular aspect of  
7 testimony by choice of counsel, essentially, rather  
8 than having the jury make that decision during  
9 deliberations.

10 So do you disagree with that?

11 MS. POLK: No, Your Honor.

12 MR. LI: Your Honor, just for the record, we  
13 are not getting one-week notice. We are -- I  
14 apologize. I don't know whether Stephen  
15 Ray's -- Mr. Ray -- Stephen Ray -- one of the  
16 participants. We got -- we go this yesterday.  
17 Today is Wednesday. So it's not a week's notice.

18 He -- I'm literally listening to these  
19 tapes last night over dinner trying to figure out  
20 whether there is more tape to play.

21 And so my request of the state -- without  
22 trying to sound whiney here, my request of the  
23 state here is that if we can get a little more  
24 notice as to which tapes they really want to play  
25 so that we could try to figure out a way to deal

1 with this in an orderly fashion, which we're trying  
2 to do right now. I appreciate this time. And I  
3 think we are accomplishing something here.

4 But if we could have more notice, then we  
5 could do this more often and have it more smooth.  
6 And that's the request I'm making.

7 MS. POLK: Your Honor, there is another email  
8 that counsel hasn't had an opportunity, I guess, to  
9 pick up. But there was another email this morning  
10 that has the clip for the rest of the witnesses for  
11 the week.

12 And, Judge, I know that you need to  
13 recess, but I do have another issue before Dennis  
14 Mehravar testifies.

15 THE COURT: Okay.

16 MS. POLK: The state was provided last night a  
17 copy of a complaint -- were provided by the defense  
18 with a copy of the complaint filed by Sidney  
19 Spencer and David -- or Dennis Mehravar against  
20 James Ray and Angel Valley and the Hamiltons. It  
21 came to us via email. I assume that the defense  
22 intends to use this in some way in cross-examining  
23 Mr. Mehravar. And there are several issues.

24 First of all, there is the discovery  
25 violation. But secondly, this is a complaint

1 signed by an attorney, not by Dennis Mehravar or  
2 Sidney Spencer. It's a civil lawsuit. There is no  
3 affidavit or anything signed by Mr. Mehravar  
4 himself. And it's not clear to me what the  
5 intention is of the defense in providing this to  
6 the state. I believe that there has been a civil  
7 settlement between parties. I don't know if  
8 Mr. Mehravar or Sidney Spencer -- if either of  
9 those individuals is somebody who has settled their  
10 claims against Mr. Ray as part of that civil  
11 settlement. The state has not been provided with  
12 that information.

13 I do know that other witnesses, in  
14 response to interviews conducted by the defense --  
15 other witnesses have said that there are  
16 confidentiality agreements in place with respect to  
17 status of their lawsuit. The state does not have  
18 that information.

19 I'm putting the Court on notice that I  
20 believe that this complaint, the document itself,  
21 would be hearsay. And I don't know what the issues  
22 are, but there hasn't been disclosure to the state.  
23 There has been no disclosure of settlement  
24 information between Mr. Ray and these witnesses and  
25 I believe some of these may have been settled. And

1 then, of course, this is also a lawsuit against the  
2 Hamiltons and Angel Valley. I believe that lawsuit  
3 is still pending.

4 THE COURT: Mr. Li?

5 MR. LI: I'm almost at a loss. You know,  
6 couple things. Just on the relevance issue, here's  
7 a man who believes he -- you know -- who was at the  
8 incident, who is the state's witness. The state  
9 certainly could have -- these are all publicly  
10 available documents. When you file a lawsuit, you  
11 go to the county clerk and you get it. So the  
12 state has equal access to the information. They  
13 merely have to ask their witness, hey. Have you  
14 filed a lawsuit? That's what I would do if I were  
15 a prosecutor. And then, oh. You did? Where did  
16 you file it? And then I send Detective Diskin, who  
17 is very capable, to the county courthouse and pick  
18 it up. So in terms of a disclosure violation, I  
19 take a little umbrage at that.

20 The second thing is we were not aware of  
21 this rule that that -- for impeachment evidence,  
22 which is what this is, that there is a heightened  
23 disclosure obligation where the defense has to give  
24 anything it can think of that it might want to use  
25 in impeaching a particular witness. But because of

1 yesterday -- because of the Court's ruling  
2 yesterday, out of an abundance of caution, we  
3 wanted to make sure that I didn't run afoul or --

4 THE COURT: Mr. Li, I have to stop you. That  
5 case you provided -- when I read it, the Osborn  
6 case -- talks about 613 and statements specifically  
7 with regard to 613 and spends a lot of time talking  
8 about the state choosing not to look into that.

9 I -- give me some authority that says  
10 after there is direct that there can be an exhibit  
11 that's brought forth that has to be litigated as to  
12 its authenticity, when it occurred, as opposed to a  
13 statement. If that case really goes beyond the  
14 statements, I'd like to know.

15 But what you're telling me, I really want  
16 to see the authority, because I'm not -- I've not  
17 known of exhibits coming in -- you know -- for  
18 impeachment that were discovered ahead of time and  
19 are they really impeachment. I'm just not aware of  
20 that.

21 MR. LI: Your Honor --

22 THE COURT: I don't see the case talking about  
23 that either. So if you have other authority --  
24 that's the 1980 case -- please provide it to me.

25 MR. LI: Yes, Your Honor. I don't want to

1 relitigate that particular issue. We will address  
2 it. That's not the point I'm trying to make here.

3 THE COURT: I think I can address this issue.  
4 Whether a witness has filed a lawsuit or has a  
5 lawsuit going, that goes to motive and bias.  
6 That's basic, I think.

7 There's a different question as whether  
8 or not you can get a legal document that's been  
9 filed extrinsic evidence, whether it's disclosed or  
10 not, into court. I did cite the case in that one  
11 ruling that says that when it goes to motive and  
12 bias, you're not just under the rule that requires  
13 that you can only cross-examine as to credibility  
14 and not provide extrinsic evidence.

15 If it goes to motive and bias, I think  
16 extrinsic evidence is allowed. Again, I think  
17 there can be disclosure type issues. And I think  
18 just having a complaint in as evidence, I have a  
19 concern about that.

20 But in terms of cross-examination, that's  
21 potential motive and bias, a possible issue. I  
22 don't know. But I think routinely the cases say  
23 that's something you can do.

24 MR. LI: Yes, Your Honor. And that's the  
25 reason why we would seek to question him about a

1 lawsuit that he's brought against a number of  
2 parties, including some folks who are going to  
3 testify up on the stand.

4 And it's not a disclosure violation, Your  
5 Honor, to provide -- I mean, look. I provided this  
6 document to the state last night out of an  
7 abundance of caution. It's our position that, in  
8 all honesty, they could get this thing themselves.  
9 It's in the courthouse. It's not something that we  
10 made up or we found or -- you know -- we don't have  
11 sleuths who are out there rummaging around finding  
12 this stuff.

13 This is a publicly available document  
14 that an attorney for this particular witness filed  
15 upon his behalf. There are a lot of reasons why  
16 lawsuits that are filed on somebody's behalf are,  
17 basically, an adopted admission. They're their  
18 statements.

19 And so I don't want to over litigate this  
20 issue, Your Honor. But I do -- this idea of  
21 discovery violation, et cetera, gets thrown around  
22 a little bit, and I don't appreciate it. And I  
23 just wanted to say we -- you know -- it is not a  
24 discovery violation to provide the state with  
25 something that Detective Diskin, if he wanted to,

1 could go find himself.

2 THE COURT: With regard to the other exhibit,  
3 you need a good-faith basis to cross-examine.  
4 There can be a lot of cross-examination based on  
5 the information that's apparent in that exhibit  
6 without offering exhibits that the other side did  
7 not have an opportunity to address.

8 MR. LI: Are we talking about the lawsuit or  
9 picture?

10 THE COURT: I'm talking about both. I'm  
11 talking about this complaint right now. It's a  
12 different question. I don't know that you had to  
13 give that to the state. If you're going to  
14 cross-examine and you have a good-faith basis, why  
15 would you necessarily have to do that?

16 MR. LI: I just don't want to --

17 THE COURT: If you want to put some evidence  
18 in, that's a different question.

19 MR. LI: I understand, Your Honor.

20 THE COURT: I'm talking about physical  
21 evidence as opposed to good-faith basis  
22 cross-examination.

23 MR. LI: I appreciate that, Your Honor. I  
24 really do. And I'm not trying to relitigate an  
25 issue that we talked about this morning. Out of an

1 abundance of caution, I don't want to -- look. The  
2 state took the position that me sending them an  
3 email with this particular document attached to it  
4 last night after the Court's ruling was still a  
5 discovery violation. Okay. So for -- the Court  
6 has heard the state accuse us of discovery  
7 violation.

8 I agree with Your Honor that I don't  
9 actually have to disclose that particular document.  
10 And I wrote in my email I don't believe we have to  
11 do this, but I'm doing this.

12 THE COURT: Of course, you have to be ready  
13 with the prove up. And that's what you've done.

14 MR. LI: I understand. And so I'm not seeking  
15 to argue with the Court about another issue and  
16 earlier and any of that. The state has accused of  
17 a discovery violation.

18 THE COURT: On this?

19 MR. LI: On this exact point. Okay. And I  
20 don't -- I don't care. They can find out whatever  
21 evidence they want to find out. This guy filed a  
22 lawsuit. If they haven't found it themselves, I'm  
23 sorry. Okay. We'll give it to them. That's not  
24 how we normally do things, but if they can't find  
25 it, we'll give it to them. And that's the position

1 we'll take. And you know what? They can do  
2 whatever they want to do with that. But if they  
3 want to claim a discovery violation, Your Honor, I  
4 will be honest with you. I take umbrage at that.  
5 It's not correct. It's a complete distortion of  
6 what the rule is.

7 THE COURT: Okay, Mr. Li. I don't find a  
8 discovery violation on that.

9 MR. LI: Thank you.

10 THE COURT: We're going to recess. Thank you.  
11 (Recess.)

12 (Proceedings continued in the presence of  
13 jury.)

14 THE COURT: The record will show the presence  
15 of the defendant, Mr. Ray, the attorneys, the jury.  
16 The witness, Dr. Wagoner, has returned to the  
17 witness stand.

18 And, of course, Dr. Wagoner, you're still  
19 under oath.

20 THE WITNESS: Yes.

21 THE COURT: Mr. Hughes.

22 MR. HUGHES: Thank you, Your Honor.

23 Q. BY MR. HUGHES: Doctor, I think when we  
24 had broken for lunch you were describing the  
25 aftermath, so to speak, of the people being pulled

1 out of the sweat lodge at the end of the ceremony.

2 Do you recall those questions?

3 **A. Yes.**

4 **Q.** Would you tell us, as you moved from your  
5 position where you were seated and went around the  
6 sweat lodge to go out and you encountered groups of  
7 people who were unconscious, were you able to  
8 notice any differences in the temperature inside  
9 the sweat lodge?

10 **A. Yes.**

11 **Q.** Would you note for us on the overhead  
12 chart, which is still Exhibit 414, any areas where  
13 you noticed differences in the temperature inside  
14 the sweat lodge.

15 **A. As you walked back here, this area right**  
16 **in here was extremely hot.**

17 **Q.** Was the area that you noted back there --  
18 was it noticeably hotter than the location where  
19 you were sitting over by the door?

20 **A. Oh, far hotter.**

21 **Q.** Can you tell us the distance,  
22 approximately, from where you were sitting to the  
23 edge of the pit. So that distance in between.

24 **A. I'm not very good at judging distances.**

25 **An objective measurement from the flap to the pit**

1 **would be more accurate than what I would come up**  
2 **with.**

3 **Q.** Okay. Fair enough. We will have a  
4 witness later who measured things out, so I won't  
5 press you on that.

6 You mentioned that in the area where you  
7 were seated, I believe, there were two rows of  
8 people?

9 **A. Correct.**

10 **Q.** How about in the area where Mr. Ray was  
11 seated? How many rows of people were there?

12 **A. Two.**

13 **Q.** Was there a row, then, seated directly in  
14 front of Mr. Ray?

15 **A. Yes.**

16 **Q.** You mentioned that throughout the sweat  
17 lodge ceremony people were pulled unconscious out  
18 the entrance.

19 **A. Correct.**

20 **Q.** Were people pulled past where Mr. Ray was  
21 sitting?

22 **A. Yes.**

23 **Q.** Were they pulled, then, in the clockwise  
24 direction?

25 **A. Yes.**

1 **Q.** Do you have any idea -- and I know -- I

2 won't ask too much about distance. But do you have  
3 any idea how far from Mr. Ray they were as they  
4 were pulled past him?

5 **MR. KELLY:** I'm going to object to lack of  
6 foundation, Judge.

7 **THE COURT:** Whether or not she has any idea, I  
8 think, was the question **BY MR. HUGHES.**

9 So that may be answered, if you can.

10 **THE WITNESS:** I would estimate it would be  
11 within six feet.

12 **Q.** **BY MR. HUGHES:** Is that something you  
13 personally witnessed?

14 In other words, let me ask a different  
15 question. I asked do you have any idea. What is  
16 that idea based upon?

17 **A. Well, the length of a person lying down.**

18 **There were two rows of people. And to get by**  
19 **Mr. Ray, there would be approximately the distance**  
20 **of one human body length between him and the area**  
21 **where they were walking out.**

22 **Q.** And then when they were actually -- when  
23 people were actually going out that entrance, did  
24 they then get closer to where Mr. Ray was seated?

25 **A. Yes.**

1 **Q.** In fact, was there anybody in between  
2 Mr. Ray and the door?

3 **A. There may have been at times. I'm not**  
4 **sure.**

5 **Q.** Okay. Is that something you have a clear  
6 memory about one way or the other?

7 **A. No.**

8 **Q.** Okay. As the people were brought out the  
9 entrance, the unconscious ones throughout the  
10 ceremony, did Mr. Ray ever stop the proceedings to  
11 check on them?

12 **A. No.**

13 **Q.** At any time did Mr. Ray, either during  
14 the proceedings or during the breaks in between the  
15 rounds -- did he ever inquire of anybody outside as  
16 to how those people were doing?

17 **A. Not that I'm aware of.**

18 **Q.** You mentioned, Doctor, that you stayed  
19 pretty much in the same area throughout the sweat  
20 lodge experience, is that correct --

21 **A. That's correct.**

22 **Q.** -- until it came time for you to leave at  
23 the end?

24 **A. Yes.**

25 **Q.** Do you know whether Mr. Ray stayed in the

1 same area throughout the sweat lodge experience?  
 2 **A. I believe he did.**  
 3 **Q.** Did you ever see Mr. Ray move from the  
 4 area where he was seated to the area of the pit?  
 5 **A. Yes.**  
 6 **Q.** And when did that occur?  
 7 **A. When he poured water onto the coals.**  
 8 **Q.** And how often would you reckon he poured  
 9 water onto those coals?  
 10 **A. At the beginning of each round.**  
 11 **Q.** And by "the coals," are you referring to  
 12 the rocks that were inside?  
 13 **A. Yes.**  
 14 **Q.** Did you ever see anything other than  
 15 rocks being brought in to heat the sweat lodge?  
 16 **A. No.**  
 17 **Q.** When you finally moved from the location  
 18 where you were seated at and started to leave the  
 19 sweat lodge, did you ever move closer to the pit in  
 20 the area that Mr. Ray was at when he was adding  
 21 water to the coals?  
 22 **A. Yes.**  
 23 **Q.** Can you show us on this chart -- and I'll  
 24 clear the little marks I put on there. Can you  
 25 show us on this chart where you moved towards that

1 pit.  
 2 **A. Where I moved toward that pit?**  
 3 **Q.** Yes.  
 4 **A. As I told you, I don't remember whether I**  
 5 **walked around this way or whether I walked this way**  
 6 **because there was someone right in there. I'm**  
 7 **making a mess of the screen here. This was the**  
 8 **area that was very, very hot.**  
 9 **Q.** And was that the area that Mr. Ray would  
 10 move to when he poured water on the coals?  
 11 **A. He would move in this direction like**  
 12 **this.**  
 13 **Q.** Now, when you moved into that area by the  
 14 pit, did you notice a noticeable difference in  
 15 temperature in that area from the location where  
 16 you were seated by the door?  
 17 **A. Yes, I did.**  
 18 **Q.** And what did you notice about the  
 19 temperature?  
 20 **A. Well, I felt fine -- relatively fine to**  
 21 **stand up and start walking out. When I got to the**  
 22 **area near the pit where there was somebody**  
 23 **collapsed that I was going to try and pick up, it**  
 24 **was so hot, and I felt so weak.**  
 25 **The first person I tried to pick up I was**

1 **too weak to lift them, and it was because I was so**  
 2 **hot that my strength just drained away. So I put**  
 3 **that person down and went to help, as I said, the**  
 4 **man who was dragging the other woman, and I was --**  
 5 **we were barely able to pull her out. I was so**  
 6 **weak. It was very difficult.**  
 7 **Q.** Now, you mentioned that you're not sure  
 8 if you went around the back of the pit or around  
 9 the front of the pit?  
 10 **A. Right. Right.**  
 11 **Q.** You did mention earlier, though, is it  
 12 correct that you saw a body back in this area also?  
 13 Isn't that correct?  
 14 **A. Yes.**  
 15 **Q.** And you were able to see them clearly  
 16 enough to tell, in your opinion, that they were  
 17 unconscious; is that correct?  
 18 **A. Yes.**  
 19 **Q.** Based on remembering that fact, does that  
 20 help refresh your recollection as to whether you  
 21 went around the back of the pit or around the front  
 22 of the pit?  
 23 **A. I think I probably went around the back**  
 24 **of the pit.**  
 25 **Q.** Now, you mentioned you were feeling

1 pretty weak at the point, and you finally --  
 2 **MR. KELLY:** Your Honor, object. Form of the  
 3 question.  
 4 **THE COURT:** Overruled. Again, if it's -- if  
 5 it can't be answered, the witness can state it.  
 6 But if it's inaccurate in the recitation of the  
 7 prior testimony --  
 8 Continue with the question, Mr. Hughes.  
 9 **MR. HUGHES:** Thank you.  
 10 **Q.** **BY MR. HUGHES:** Doctor, you mentioned you  
 11 were weak when you exited the sweat lodge. Do you  
 12 recall that?  
 13 **A. Yes.**  
 14 **MR. KELLY:** Object to the leading nature of  
 15 this testimony and the form of the question.  
 16 **THE COURT:** I think it's to set up another  
 17 question.  
 18 **MR. HUGHES:** It is, Your Honor. It's  
 19 foundational.  
 20 **THE COURT:** Overruled.  
 21 **Q.** **BY MR. HUGHES:** When you exited, can you  
 22 tell us what you did at that point.  
 23 **A. After I put the person down, I turned to**  
 24 **the people standing at the side of the tent, who I**  
 25 **believed were Dream Team members, and said, there**



1 are people unconscious. They can't get out. They  
2 need help.

3 And then I walked further out into the  
4 field and laid down.

5 Q. And about how far away from the sweat  
6 lodge did you lay down?

7 A. Maybe 20 feet.

8 Q. Doctor, I'm going to show you what's  
9 admitted as Exhibit 144. Can you recall from that  
10 photograph the area where you finally went to lay  
11 down?

12 A. I don't think it's in this picture. I  
13 believe it's -- is the flap by where those white  
14 buckets or white --

15 MR. KELLY: Your Honor, I would object.

16 THE WITNESS: -- white squares are.

17 THE COURT: Sustained.

18 Q. BY MR. HUGHES: And I can ask you another  
19 question.

20 A. Okay. I --

21 Q. Doctor, do you know where the flap is on  
22 the sweat lodge structure depicted in the  
23 photograph?

24 A. No. I'm having a hard time telling that.

25 Q. Okay. For sake of argument, if you were

1 to assume the flap was in that area, does that help  
2 orientate you as to where you finally laid down?

3 A. Yes.

4 Q. Would you point out, then, with that  
5 assumption, where it is that you finally laid down.

6 A. Outside the picture.

7 Q. Okay. Can you give us a general  
8 direction? Is it off that way or is it off in some  
9 other direction?

10 A. It's off in this direction.

11 Q. Thank you, Doctor. When you were outside  
12 the sweat lodge, did anyone cool you down with  
13 water in any way?

14 A. Yes. Somebody told me to lie down, and  
15 they poured water on me.

16 Q. Do you recall who that person was?

17 A. No.

18 Q. And was it a man or a woman?

19 A. I don't remember.

20 Q. And do you recall how they poured water?  
21 Was it with a bucket or a hose or some other way?

22 MR. KELLY: Your Honor, object.

23 THE COURT: Sustained.

24 Q. BY MR. HUGHES: How did they pour water  
25 on you?

1 A. They poured it out of some kind of a  
2 container.

3 Q. Do you recall what the air temperature  
4 felt like outside after you exited the sweat lodge?

5 A. I remember feeling very chilled after the  
6 water was poured on me.

7 Q. And did you stay in the location where  
8 the water was poured on you for some period of  
9 time?

10 A. Yes.

11 Q. How long would you reckon you stayed in  
12 that place?

13 A. I really don't know. I tried to get up,  
14 and somebody told me, don't get up. Just lie  
15 there.

16 Q. Do you think that the ability to tell the  
17 passage of time was still affected at that point?

18 A. Yes.

19 Q. Did you drink any water or any  
20 electrolyte sort of fluid once you left the sweat  
21 lodge?

22 A. No.

23 Q. Did you try and eat anything after you  
24 left the sweat lodge?

25 A. No.

1 Q. Can you describe, as you sat there, what  
2 you observed going on around you?

3 A. Yes. May I make a correction to what I  
4 just said, though? I remember that someone did  
5 give me a cup of, like, electrolyte solution or  
6 something to drink. It was vile tasting. I didn't  
7 drink it.

8 Q. Okay. And then to turn you back to the  
9 next question, can you describe what you saw going  
10 on around outside the sweat lodge after you were  
11 sitting in that place.

12 A. When I was there, I observed many, many  
13 people all lying down on the ground. And I thought  
14 perhaps they'd been given the same instructions  
15 that I had to not get up. And then when I finally  
16 did get up, I was told to go back to my room  
17 immediately. And I looked around and didn't feel  
18 comfortable doing that as I started to realize that  
19 there were a number of people in distress.

20 Q. Did you ever see Liz Neuman outside the  
21 sweat lodge?

22 A. No.

23 Q. Did you ever assist anybody who you  
24 indicated -- anybody that you saw in distress?

25 A. Yes. I stayed with Liz Neuman.

1 Q. Where did you see Liz?

2 A. Liz was not very far outside the tent  
3 flap. Coming out it was a little bit to the right.  
4 And she was lying on her side, and she was  
5 unconscious. And as I looked around, she was the  
6 only one who didn't have somebody tending to her.

7 I didn't recognize her but -- at the  
8 time. But Lou, one of the participants, came by  
9 and said, wake up, Liz. Wake up, Liz. So I  
10 figured her name was Liz. And so when -- he left.  
11 So I stayed with her to make sure she continued to  
12 keep breathing.

13 Q. Did you ever try and talk to Liz?

14 A. Yeah. I talked to her. You know.

15 Q. Did she respond back to you?

16 A. No.

17 Q. Were you able to assess what her  
18 breathing was like?

19 A. She was breathing regularly. There was  
20 saliva and foam coming out of her mouth. That's --

21 Q. Do you --

22 A. -- I mean, what I can tell you.

23 Q. Do you recall -- at some point did you  
24 leave the side of Liz?

25 A. No. I stayed with her once I identified

1 her as being unconscious and no one with her. I  
2 stayed with her the entire time.

3 Q. What to you mean by "the entire time"?

4 A. Until a paramedic came to start an IV and  
5 to take her off the field.

6 Q. Do you know how long a time that took for  
7 the paramedics to arrive?

8 A. It seemed like a very long time. Again,  
9 my timing is distorted, but I would say at least  
10 over half an hour.

11 Q. At some point did you ask or did you  
12 speak to the defendant about a 9-1-1 call?

13 A. Yes, I did.

14 Q. Can you tell us the circumstances around  
15 that.

16 A. After I had been told to leave the area  
17 and I didn't and I was looking around, I had been  
18 aware of some people in the back of the tent. And  
19 I wasn't sure what was going on there. And this  
20 was before I found Liz.

21 So I went to take a closer look at the  
22 people at the table and realized they were doing  
23 CPR and had been doing CRP. And I was shocked. I  
24 could tell that they were doing an okay job. I  
25 didn't go over there further. And I saw James

1 standing off to the side. And I said, has anyone  
2 called 911? And he just said, it's been taken care  
3 of.

4 Q. Did he say anything else other than that?

5 A. No.

6 Q. Now, do you recall what person was the  
7 recipient of the CPR? In other words, the patient?

8 A. I did not get close enough to see who  
9 they were.

10 Q. Could you tell if it was a man or a  
11 woman?

12 A. I couldn't tell.

13 Q. And would you show us, if possible,  
14 the -- you said it was on the far side of the sweat  
15 lodge?

16 A. Uh-huh.

17 Q. Would you show us on this Exhibit No. 144  
18 approximately where around the sweat lodge you were  
19 talking about.

20 A. Over in this area.

21 Q. At any time prior to going into the sweat  
22 lodge, were participants given a safety plan to  
23 follow inside the sweat lodge?

24 A. No.

25 Q. At any time prior to going into the sweat

1 lodge, did Mr. Ray or anyone else tell the  
2 participants to check on or keep an eye on their  
3 neighbors?

4 A. No.

5 Q. Doctor, did you feel like you had an  
6 adequate time to hydrate prior to the sweat lodge  
7 and after the Vision Quest?

8 A. James Ray told us to hydrate after the  
9 Vision Quest. He didn't initially tell us why.  
10 And my interpretation was it was just to correct  
11 the dehydration from the Vision Quest.

12 I'm quite sensitive to hydration issues,  
13 so I was quite conscientious about hydrating a lot  
14 afterward.

15 Q. You said you were sensitive to that. Is  
16 that actually what you did, then, between the  
17 Vision Quest and the sweat lodge?

18 A. Yes. I drank a lot.

19 Q. The waiver that you signed -- would you  
20 have signed that waiver if you had known there was  
21 a risk that people could die inside the sweat  
22 lodge?

23 MR. KELLY: Your Honor, objection.

24 THE COURT: Sustained.

25 Q. BY MR. HUGHES: Did you believe, prior to

1 entering the sweat lodge, people could die inside  
 2 the sweat lodge?  
 3 **A. Not really.**  
 4 **Q.** Would you have gone in if you thought  
 5 there was?  
 6 **A. No.**  
 7 **Q.** Doctor, as a doctor, were you concerned  
 8 while you were inside the sweat lodge about the  
 9 conditions inside the sweat lodge?  
 10 **A. Not really.**  
 11 **Q.** Can you tell us why.  
 12 **A. I believed that the -- I saw people**  
 13 **leaving, so I figured they were too hot. And I**  
 14 **thought that the people who had lost**  
 15 **consciousness -- it had been fairly abrupt and**  
 16 **somebody attended to them.**  
 17 **I was talking to the people around me**  
 18 **making sure that they were awake and okay once I**  
 19 **saw people unconscious being moved out. But my own**  
 20 **physiology didn't feel threatened.**  
 21 **Q.** If you were -- had been aware of the  
 22 hotter temperatures that you've described in other  
 23 parts of the sweat lodge, would that have changed  
 24 your concern or lack of concern about the  
 25 conditions inside the sweat lodge?

1 MR. KELLY: Objection, Your Honor.  
 2 Speculative in the form of the question.  
 3 THE COURT: Overruled.  
 4 You may answer that if you can.  
 5 THE WITNESS: If I had been in the spot where  
 6 I approached as I exited the tent and I had been in  
 7 that, I would have been very concerned.  
 8 **Q.** BY MR. HUGHES: Can you point for us what  
 9 that spot is that you're referring to.  
 10 Thank you, Doctor.  
 11 THE COURT: Thank you, Mr. Hughes.  
 12 Mr. Kelly.  
 13 CROSS-EXAMINATION  
 14 BY MR. KELLY:  
 15 **Q.** Good afternoon, Doctor. My name is Tom  
 16 Kelly. And I represent Mr. Ray along with a couple  
 17 of other attorneys.  
 18 You and I have never met; correct?  
 19 **A. Correct.**  
 20 **Q.** I understand that you own and operate a  
 21 medical facility in Juneau, Alaska. Correct?  
 22 **A. Correct.**  
 23 **Q.** You received your medical degree from the  
 24 University of Washington; correct?  
 25 **A. Yes.**

1 **Q.** Moved to Juneau and have practiced  
 2 medicine for over 25 years; correct?  
 3 **A. 21 years.**  
 4 **Q.** 21 years. And back in 2009, you told us  
 5 that you began to become interested in the JRI  
 6 seminars due to some personal problems or issues or  
 7 concerns that you had; correct?  
 8 **A. A personal trauma. Yes.**  
 9 **Q.** And you knew that the focus of these  
 10 seminars was to help a person take control of their  
 11 own lives; correct?  
 12 **A. Yes.**  
 13 **Q.** And you, as a medical doctor, are the  
 14 type of lady who is able to take control of their  
 15 own life and their own situations; correct?  
 16 **A. Yes.**  
 17 **Q.** And, in fact, as a doctor, you've had to  
 18 do that on numerous occasions, I would assume;  
 19 correct?  
 20 **A. Could you repeat the question.**  
 21 **Q.** That was a poor question. I'll try  
 22 again.  
 23 You've been, throughout your lifetime as  
 24 a medical doctor, in situations where it was  
 25 necessary for you to take control of the situation

1 and perhaps render something like medical aid;  
 2 correct?  
 3 **A. Correct.**  
 4 **Q.** Let me give you an example. Let's see if  
 5 this is true. If right now in this courtroom  
 6 Mr. Li fell out of his chair unconscious, as a  
 7 medical doctor you would get up from that chair and  
 8 go over and render aid; correct?  
 9 **A. Yes.**  
 10 **Q.** Despite the fact that Judge Darrow is in  
 11 control of this courtroom, you would do that  
 12 because as a doctor that's what you've done your  
 13 entire life; correct?  
 14 **A. Yes.**  
 15 **Q.** And I think as a society, would you agree  
 16 with me that other people frequently ask you --  
 17 once they find out you're a doctor, ask you to take  
 18 control of situations such as the one I just  
 19 described in a hypothetical? Correct?  
 20 **A. Yes.**  
 21 **Q.** Now, alternatively, when you're making  
 22 that decision -- should I take control, should I  
 23 render medical assistance -- necessarily it's based  
 24 on your perception of the event; correct?  
 25 **A. Correct.**

1 Q. So, again, I'm going to use my example.  
2 If you saw Mr. Li and he put his head down and your  
3 perception was he's bored with Mr. Kelly's  
4 questioning, then you're not going to get up and  
5 render medical aid; correct?

6 A. No.

7 Q. Because at that point in time your  
8 perception is such that he's not in medical  
9 distress and your services are not needed; correct?

10 A. Correct.

11 Q. During this sweat lodge ceremony, you  
12 told us that you were seated near the entrance --  
13 and I forgot this exhibit number. I believe it's  
14 414.

15 I think you told us you were in  
16 approximately this location. Correct?

17 A. Correct.

18 Q. And I take it, then, that Mr. Ray was on  
19 the other side of the opening and about this  
20 location; correct?

21 A. Yes.

22 Q. When the flap goes down and a round is to  
23 begin, it's dark inside; correct?

24 A. Yes.

25 Q. It's my understanding that once that

1 happens, at times throughout the course of the  
2 sweat lodge ceremony there was a lot of noise.  
3 Correct?

4 A. Yes.

5 Q. As it began, people were yelling out  
6 intentions; correct?

7 A. Yes.

8 Q. And as an example, if I went to the  
9 Spiritual Warrior seminar and I wanted to be a  
10 better father, as this thing started I might yell  
11 out I want to be a better dad. And that person  
12 would receive support from the other participants;  
13 correct?

14 A. **My recollection is that we were all  
15 pretty much focused on our own issues. I really  
16 wasn't listening to anyone else, and I wasn't  
17 serving as a cheerleader. I was solely focused on  
18 my own issues.**

19 Q. And my point is that in addition to being  
20 dark and hot, at times it's noisy; correct?

21 A. Yes.

22 Q. When the flap is down, are you able to  
23 see James Ray?

24 A. No.

25 Q. Ma'am, I'll rephrase that question. Are

1 you confident that once the flap is down, Mr. Ray  
2 stayed in the same location next to the door? You  
3 didn't see him move around throughout the tent;  
4 correct?

5 A. **No, I did not.**

6 Q. Could you see forms of human beings  
7 inside that sweat lodge?

8 A. **I don't -- I don't believe so. Again, we  
9 were focusing very intently on our objectives for  
10 being there. But I was aware that you couldn't see  
11 other people in order -- we were packed in so  
12 tightly that you couldn't move around. You  
13 couldn't -- you couldn't get up and just walk  
14 around.**

15 Q. How far away do you believe you were from  
16 James Ray?

17 A. **Again, with the caveat that I'm not very  
18 good with distance, I'd say 12 or 15 feet.**

19 Q. Let me rephrase the question this way:  
20 Were you closer to than you or I -- were you closer  
21 to him than you and I are right now?

22 A. **Probably not -- probably pretty similar.**

23 Q. And I've asked this question. But,  
24 again, he's on the other side of the entrance. And  
25 if we take a look at Mr. Hughes' Exhibit 144, these

1 folks appear to be lined up to enter the sweat  
2 lodge before the ceremony; correct?

3 A. **I really don't know. I can't tell from  
4 looking at that picture.**

5 MR. KELLY: May I approach the witness, Judge?

6 THE COURT: Yes.

7 Q. BY MR. KELLY: Sometimes, Doctor, these  
8 screens are not very good. It may help for you to  
9 take a look.

10 A. **Yes. That appears to be us entering the  
11 sweat lodge.**

12 Q. Now I'm going to approach and hand you  
13 what's been admitted as Exhibit 145.

14 I believe we'll publish it to the jury.

15 Did you get a chance to look at it,  
16 Doctor?

17 A. **Uh-huh.**

18 Q. Did you get a chance to look at it?

19 A. **Yes.**

20 Q. Exhibit 145 is up on the screen,  
21 identical version to what you have. Do you  
22 recognize this as a door right in front of the lady  
23 with a white top?

24 A. **Yes.**

25 Q. Now, does that give you an idea as to how

1 wide that door was? Does that help?

2 **A. Yes.**

3 **Q.** Give us your estimate.

4 **A. Probably about four to five feet.**

5 **Q.** If you take a look at this laser, Mr. Ray

6 is seated in this general area on that side of the

7 door; is that correct?

8 **A. Yes.**

9 **Q.** On the left side is where you're seated;

10 correct?

11 **A. Yes.**

12 **Q.** And his perception, then, inside that

13 sweat lodge is very similar to your perception;

14 correct?

15 **A. I believe -- guess it would be. I don't**

16 **know.**

17 **Q.** Well, you're within four to six feet on

18 opposite sides of the same door is my point.

19 Correct?

20 **A. Yes.**

21 **Q.** It's dark inside; correct?

22 **A. Yes.**

23 **Q.** It's hot; correct?

24 **A. Yes.**

25 **Q.** It's noisy; correct?

1 **A. Yes.**

2 **Q.** I believe you were talking about the

3 respective heat differences in the sweat lodge.

4 **A. Yes.**

5 **Q.** It's your opinion by the door is a little

6 cooler than the other parts; correct?

7 **A. Yes.**

8 **Q.** And so my question is real simple. Is if

9 he's that close to you, his perception must be very

10 similar to yours?

11 **MR. HUGHES:** Object to foundation as to

12 whether he's referring to when Mr. Ray's by the

13 door or maybe by the fire pit.

14 **THE COURT:** Mr. Kelly.

15 **MR. KELLY:** I'll lay some more foundation.

16 **Q.** You told us that someone came in with

17 some rocks, put them in the pit in the middle;

18 correct?

19 **A. Right.**

20 **Q.** And then Mr. Ray would take some water,

21 put on the hot rocks; correct?

22 **A. Yes.**

23 **Q.** And then he'd go back to the same

24 location by the door close to where you're at;

25 correct?

1 **A. Yes.**

2 **Q.** And so I'm only talking about when he's

3 close to you, his perception is very similar to

4 yours. Fair statement?

5 **A. I can't answer that with a yes or no**

6 **because people have different perceptions of heat.**

7 **Q.** Okay. Let's leave the heat out. Let's

8 talk about the sounds. Do you believe the sound

9 would be very similar?

10 **A. Yes.**

11 **Q.** The darkness?

12 **A. Again, these questions depend on your**

13 **visual acuity, your hearing ability. And that can**

14 **vary among individuals --**

15 **Q.** Right.

16 **A. -- if I understand your question**

17 **correctly. Assuming we have similar abilities, I**

18 **would assume it would be a similar experience.**

19 **Q.** I want you to assume an average person,

20 not assign any specialized abilities to Mr. Ray,

21 just an average guy sitting there.

22 He's in a very similar situation. That's

23 my point. Correct?

24 **A. Yes.**

25 **Q.** If we could pan back out on Exhibit 145.

1 You see these chairs on the left?

2 **A. Yes.**

3 **Q.** Do you see these Dream Team members

4 standing around the tent?

5 **A. Yes.**

6 **Q.** Do you see this lady with the black top

7 on?

8 **A. Yes.**

9 **Q.** Did you meet someone, a Dream Team

10 member, by the name of Lori Hinman?

11 **A. No. Not that I remember.**

12 **Q.** Let me have you take a look at

13 Exhibit 146, ma'am.

14 May I approach?

15 **THE COURT:** Yes.

16 **Q.** BY MR. KELLY: Same sweat lodge,

17 different perception; correct? Different angle?

18 **A. Correct.**

19 **Q.** And, again, you can see the lady with the

20 black top; correct?

21 **A. Yes.**

22 **Q.** You can see the other Dream Team members,

23 I think it was called "holding space," around the

24 surrounding portion of the sweat lodge; correct?

25 **A. Yes.**

1 Q. You would agree with me that the door is  
2 not in front of this lady with the blue top; right?

3 A. Yes.

4 Q. Now, I want to take you back inside the  
5 sweat lodge. And this Photograph 146 gives us an  
6 idea as to its height. Are you saying that you  
7 were able to stand up as you were trying to get out  
8 of the sweat lodge?

9 A. Not completely.

10 Q. Okay. You kind of had to crouch over  
11 whether you were entering or leaving; correct?

12 A. Yes.

13 Q. And when we take a look at Exhibit 145, I  
14 believe it is, as you enter through the door, the  
15 instructions from Mr. Ray were to enter and exit in  
16 a clockwise manner; correct?

17 A. Yes.

18 Q. And before you entered the sweat lodge,  
19 you met at the Crystal Palace, and Mr. Ray gave you  
20 a presentation about the sweat lodge; correct?

21 A. Yes.

22 Q. And he told you that for safety purposes,  
23 people should enter and exit in an orderly manner;  
24 correct?

25 A. It wasn't for safety purposes that we

1 were to enter that way. It was part of a  
2 ceremonial tradition.

3 Q. Do you remember him saying something to  
4 the effect -- and I'm paraphrasing -- if you need  
5 to leave, leave in the same order that you came in.  
6 Go clockwise. Be aware that there will be people's  
7 feet and arms. It's dark in there. Be careful.  
8 There is hot rocks in the middle. Things of that  
9 nature?

10 A. He said if you're going to leave, leave  
11 in a clockwise direction. He did not add the other  
12 things that you just mentioned.

13 Q. You know, it's been a year and a half.  
14 Let me ask you. You recall being interviewed back  
15 on October 8, 2009, by some Yavapai County  
16 Sheriff's Office deputy; correct?

17 A. Yes.

18 Q. A Detective Wendy Parkison; correct?

19 A. Yes.

20 Q. Now, between that date through today,  
21 have you had a conversation with anyone else?

22 A. "Anyone else" meaning --

23 Q. From the State of Arizona.

24 A. Well, yes.

25 Q. Who was that?

1 A. I can't give you their names. Detectives  
2 and investigators for the state have contacted me  
3 at different times.

4 Q. Men or women?

5 A. Both.

6 Q. How many times?

7 A. In what context?

8 Q. Okay. Well, that was going to be my next  
9 question. Was it in person or by telephone?

10 A. Well, they were by telephone initially  
11 until I got here, this trip.

12 Q. When did you get here?

13 A. I came Monday night.

14 Q. And so let's go from October 8 until  
15 Monday night. Were they strictly telephone  
16 conversations?

17 A. Yes.

18 Q. How many?

19 A. At least two.

20 Q. And about how long?

21 A. I'm guessing 20, 30 minutes maybe.

22 Q. And when?

23 A. I don't remember.

24 Q. Were they a month ago? Six months ago?  
25 A year ago? Can you narrow it down?

1 A. One conversation was within maybe two or  
2 three months of the event. Another conversation  
3 was more recent in anticipation of the trial.

4 Q. During these conversations, Doctor, did  
5 they ask you what you remembered happening?

6 A. Not in so many words, but they would be  
7 more directive in their questions about the  
8 experience.

9 Q. Did they tell you that they were going to  
10 be tape-recorded?

11 A. One was, one was not.

12 Q. Now, here's another question. Do you  
13 remember the names of the investigators who  
14 interviewed you?

15 A. No.

16 Q. I asked you before I'd gone off on that  
17 little side subject -- I asked you about standing  
18 up in the sweat lodge and whether you had  
19 remembered Mr. Ray making some statements to you in  
20 the presweat-lodge presentation at the Crystal  
21 Hall.

22 Do you recall those questions?

23 A. Yes.

24 Q. And I'm going to read something to you  
25 and just ask you if this refreshes your

1 recollection.

2 And that is Mr. Ray telling you  
3 if -- and I'm not saying this intention, but I'm  
4 just going to tell you, one of my teachers taught  
5 me a long time ago prepare for the worst and expect  
6 the best.

7 So my expectation -- because I know what  
8 you can do. My expectation is you're going to come  
9 through this like a samurai, and you're going to  
10 overcome whatever is going on in your head, this  
11 MF'ing James Ray stuff -- right? -- or whatever  
12 else you're going to transcend, and then it's going  
13 to show you.

14 Do you remember him -- does that refresh  
15 your recollection?

16 **A. No.**

17 **Q.** It's going to give you very powerful  
18 reference as to what you're capable of doing, what  
19 you're really capable of doing. Now, you've got to  
20 leave, you just feel like you cannot, then a couple  
21 things is that please remember this is extremely  
22 hot in the center, and many of you are going to be  
23 close to that.

24 Do you recall that advice from Mr. Ray?

25 **A. No.**

1 **Q.** Now, it's a sacred temple. And then he  
2 asked a question. And you can only move what way.  
3 And what way were you supposed to move out?

4 **A. Clockwise.**

5 **Q.** And he says, clockwise. So if you have  
6 leave, then you need to. You're right here. You  
7 can't duck out this way. You have to go all the  
8 way around and go out the lodge.

9 Now, after every round we'll open the  
10 gate for more grandfathers. And sometimes I'll  
11 leave it open for a little while just to let some  
12 fresh air in.

13 And so you cannot leave during a round if  
14 you have -- if you feel you just cannot transcend  
15 and overcome this. When the gates are open, if you  
16 have to leave, you leave and you leave very, very,  
17 very in a controlled manner very carefully.  
18 Because there is legs and it's dark. There is legs  
19 and there is knees and there is elbows. And -- you  
20 know -- the last thing we want is anybody in the  
21 pit.

22 Does that refresh your recollection as to  
23 the conversation, the presentation, given by  
24 Mr. Ray immediately before the sweat lodge?

25 **A. Some of it sounds familiar and some of it**

1 **doesn't.**

2 **Q.** So again, it's been a year and a half,  
3 Doctor. A lot of stuff has happened in your life,  
4 especially as a physician. So what you're telling  
5 this jury is you simply don't remember specific  
6 parts of that conversation, not that it didn't  
7 happen. Fair statement?

8 **A. Yes.**

9 **Q.** And you remember leaving clockwise;  
10 correct?

11 **A. Yes.**

12 **Q.** And you stayed in there for all eight  
13 rounds?

14 **A. Yes.**

15 **Q.** At the location we discussed. And then  
16 when you left, you left in the clockwise manner;  
17 correct?

18 **A. Yes.**

19 **Q.** You went close to the pit. Mr. Hughes  
20 asked you that; correct?

21 **A. Yes.**

22 **Q.** You could feel the heat from the rocks;  
23 correct?

24 **A. Yes.**

25 **Q.** And you knew, as you're starting to leave

1 this sweat lodge and go all the way around in a  
2 clockwise manner, that it's getting hotter and  
3 hotter as you're leaving; correct?

4 **A. Yes.**

5 **Q.** And you made the decision to do that;  
6 correct?

7 **A. Yes.**

8 **Q.** In other words, you could have just  
9 stepped out the door, but you personally made the  
10 decision to leave in that more roundabout hotter  
11 path; correct?

12 **A. Yes.**

13 **Q.** And as you're leaving, you noticed some  
14 other participants on the floor of the sweat lodge;  
15 correct?

16 **A. Yes.**

17 **Q.** Now, you had never noticed them prior to  
18 that; correct?

19 **A. No.**

20 **Q.** From your location, to the left of the  
21 door within six eight feet of Mr. Ray, you did not  
22 perceive that these folks were in trouble; correct?

23 **A. Correct.**

24 **Q.** If you would have -- just like my example  
25 with Mr. Li, as a medical doctor, you would have

1 went and helped; correct?

2 **A. Yes.**

3 **Q.** Now, you told the jury that at one point  
4 in time you heard a fellow by the name of Dennis  
5 outside screaming, I'm going to die, I'm going to  
6 die; correct?

7 **A. Yes.**

8 **Q.** But you didn't think he was going to die;  
9 correct?

10 **A. Correct.**

11 **Q.** Because if you would, as a medical  
12 doctor, you would have got up out of your seat,  
13 went out that door and helped him; correct?

14 **A. Correct.**

15 **Q.** If you would have gotten hot at any time  
16 in here, where you believed that you were not  
17 capable of withstanding the heat, whether that door  
18 was opened or not, you would have went out;  
19 correct?

20 **A. If it was open, I would have gone out.**  
21 **If it had been closed, it would have been difficult**  
22 **to find the way out.**

23 **Q.** Okay. But my question is, do you recall  
24 on October 8th interview, you told  
25 Detective Parkison, I never felt my health

1 threatened? I probably would have tried to get  
2 out, if the flap had been closed?

3 **A. Yes.**

4 **Q.** Even that flap wasn't going to stop you,  
5 because you're capable of making your own  
6 decisions; correct?

7 **A. Yes.**

8 **Q.** And you were capable of getting out of  
9 that sweat lodge if you needed to; correct?

10 **A. Yes.**

11 **Q.** You would have helped anyone in medical  
12 distress if that would have been your perception;  
13 correct?

14 **A. Yes.**

15 **Q.** Did you know another doctor participating  
16 that week named Dr. Jeannie Armstrong?

17 **A. Yes.**

18 **Q.** Dr. Armstrong was participating in the  
19 sweat lodges as well; correct?

20 **A. Yes.**

21 **Q.** Do you happen to know whether she was  
22 close to you or in a different location?

23 **A. I don't know where she was.**

24 **Q.** When you're in the sweat lodge,  
25 throughout the course of the eight rounds, you

1 never knew that Liz Neuman was in distress;  
2 correct?

3 **A. No.**

4 **Q.** Is that correct?

5 **A. That's correct.**

6 **Q.** And you didn't hear her say anything;  
7 correct?

8 **A. That's correct.**

9 **Q.** The same is true for James Shore;  
10 correct?

11 **A. That's correct.**

12 **Q.** And Kirby Brown?

13 **A. That's correct.**

14 **Q.** Again, ma'am, if you would have known  
15 that, you would have used every ability and every  
16 skill and every ounce of your energy to help those  
17 folks; correct?

18 **A. Yes.**

19 **Q.** You had mentioned that you signed a  
20 release.

21 May I approach, Judge?

22 THE COURT: Yes.

23 **Q.** BY MR. KELLY: Doctor, I'm handing you  
24 what's been marked for purposes of identification  
25 as 227. And I ask you to turn to the

1 next-to-the-last page.

2 Do you recognize your name and signature?

3 **A. Yes, I do.**

4 **Q.** Is this the copy of the release and  
5 waiver of liability and assumption of risk that you  
6 signed?

7 **A. I believe it is.**

8 MR. KELLY: Your Honor, I'd move to admit 227.

9 MR. HUGHES: Your Honor, the state would  
10 stipulate to its admission.

11 THE COURT: 227 is admitted.

12 (Exhibit 227 admitted.)

13 MR. HUGHES: We'd stipulate to 228 as well.

14 THE COURT: 228 is admitted.

15 (Exhibit 228 admitted.)

16 **Q.** BY MR. KELLY: Doctor, I'm handing you  
17 what's been marked as Exhibit 228. Just for your  
18 information, you can look at that number in the  
19 back, if we're referring to an exhibit number.

20 Let me ask you about 227. You recognize  
21 this as the release that you signed on behalf of  
22 JRI; correct?

23 **A. Yes.**

24 **Q.** And I'm going to put 227 up and ask Truc  
25 to blow up the second paragraph.



1 And in response on direct, you said that  
2 you didn't have knowledge -- you didn't know about  
3 the sweat lodge ceremony. Do you recall that  
4 question and answer? I mean, the first question.  
5 Do you recall that discussion?

6 **A. Yes, I do. I do.**

7 **Q.** And here is my question: This release  
8 clearly indicates that there is going to be a sweat  
9 lodge ceremony, a ceremonial sauna involving tight  
10 and close spaces and intense temperatures; correct?

11 MR. LI: Your Honor, if I may approach to get  
12 rid of the buzz?

13 THE COURT: Thank you.

14 MR. KELLY: Your Honor, may Mr. Hughes and I  
15 approach?

16 THE COURT: Yes.

17 (Sidebar conference.)

18 MR. KELLY: Judge, I don't know if this is a  
19 good time for a break. It's only been an hour. I  
20 have maybe another 10 or 15 minutes.

21 I have an issue that I need to discuss  
22 with the Court regarding disclosure out of the  
23 presence of the jury. And it may require more  
24 questions of the witness. I'm not sure.

25 THE COURT: Can you discuss it right now,

1 Mr. Kelly?

2 MR. KELLY: I laid all the foundation. We  
3 didn't receive any disclosure about the two  
4 conversations I think she said that she had with  
5 the Yavapai County Sheriff's Office.

6 The only conversation I was aware of was  
7 the one from October 8, 2009. Nowhere in that  
8 conversation did she mention that she heard Dennis  
9 Mehravar screaming, I'm going to die, I'm going to  
10 die.

11 And so -- you know -- I'd like to know  
12 more about what happened. But I really don't want  
13 to cross-examine her in front of a jury to find out  
14 that information.

15 And I don't know if Bill can avow to us.

16 MR. HUGHES: The only recorded interview with  
17 YCSO that I'm aware of is the one that you have a  
18 tape for. And in preparation for trial, I think  
19 Mr. Sisneros talked to her.

20 I was going to put on the record, in my  
21 redirect, that yesterday I met with her very  
22 briefly for maybe 10 minutes to introduce myself  
23 and talked to her very briefly yesterday. That, as  
24 far as I know, is the only contact.

25 I don't see a prejudice to the defense to

1 ask if the defense wants to ask those questions  
2 right now.

3 MR. KELLY: I did ask. She said she had two  
4 conversations between October 8 and Monday. One  
5 was tape-recorded. She said that.

6 THE COURT: Mr. Kelly, are you asking if there  
7 is another transcript out there or tape or  
8 something? Because at this point I don't know what  
9 can be done.

10 MR. KELLY: Well, as an example, it's kind of  
11 tough on cross-examination to start asking  
12 questions. I don't know what the answer to it --

13 THE COURT: Was she interviewed before?

14 MR. KELLY: No.

15 MR. HUGHES: She was made available.

16 MR. KELLY: She was made available.

17 THE COURT: And this gets into this question  
18 too of when somebody talks to his or her own  
19 witness. You can make yourself a witness if you  
20 don't tape.

21 So if this had been mentioned to the  
22 state before, that's the kind of thing that should  
23 have been disclosed.

24 MR. KELLY: Judge, we didn't know until direct  
25 examination.

1 MR. HUGHES: I'm not sure I'd have to look at  
2 the transcript to see if she mentioned that. I'm  
3 not sure she mentioned that to Mr. Sisneros or not.

4 At this point, all I have are his  
5 handwritten notes, I have to admit, I have a hard  
6 time reading.

7 MR. KELLY: I'll go back.

8 THE COURT: Okay.

9 (End of sidebar conference.)

10 THE COURT: Mr. Kelly.

11 **Q.** BY MR. KELLY: Did you get a chance to  
12 quickly review Exhibit 227?

13 **A. Yes, I did.**

14 **Q.** Again, that's the Spiritual Warrior  
15 release waiver of liability, assumption of risk,  
16 that you signed back on October 3rd, 2009?

17 **A. Yes.**

18 **Q.** And you would agree with me that in this  
19 release it says that the participants may engage in  
20 a sweat lodge ceremony. Correct?

21 **A. Yes.**

22 **Q.** A Vision Quest, a multi-day, solitary,  
23 personal and spiritual quest in the wilderness  
24 without food or water; correct?

25 **A. Yes.**

1 Q. Now, I guess my first question is, you  
2 just didn't read this in detail, then, on  
3 October 3rd, I take it?  
4 A. I did.  
5 Q. You had told in response to some  
6 questions of Mr. Hughes that you know how important  
7 it was to hydrate. Do you recall that?  
8 A. Yes.  
9 Q. I guess my question was going to be, when  
10 this Exhibit 227 was signed, it actually says  
11 you're going to be out in the wilderness without  
12 any food or water; correct?  
13 A. Yes.  
14 Q. Did that help reinforce your intent to  
15 drink a lot of water?  
16 A. Yes.  
17 Q. And it also said, of course, there could  
18 be a sweat lodge ceremony; correct?  
19 A. Yes.  
20 Q. And now having looked at it, does that  
21 refresh your recollection -- were you aware on the  
22 first day there was going to be a sweat lodge  
23 ceremony?  
24 A. Well it said and/or. And in previous  
25 experience not all of the activities listed in the

1 waiver actually occurred at the events. So the  
2 Vision Quest, I thought, was so extreme that I  
3 thought we're done.  
4 Q. We're done. Okay. And I don't want to  
5 mischaracterize what's in the release. My point  
6 was simply that the release included information  
7 about the possible activity during the Spiritual  
8 Warrior event. Correct?  
9 A. Yes.  
10 Q. As a result of this, plus just your own  
11 personal belief, you drank a lot of water; correct?  
12 A. Yes.  
13 Q. And you saw, as you've characterized  
14 elsewhere, pots of water available for others to  
15 drink; correct?  
16 A. Yes.  
17 Q. They were in the Igloo containers outside  
18 the sweat lodge, as shown on 321; correct?  
19 A. Yes.  
20 Q. And you told us when you came out of the  
21 sweat lodge, you were actually offered a drink of  
22 something that tasted, in your words, vile.  
23 Probably electrolytes; correct?  
24 A. Yes.  
25 Q. And were you aware that -- I'll rephrase

1 my question.  
2 When you signed up for the Spiritual  
3 Warrior, you also had to pay money to Angel Valley;  
4 correct?  
5 A. Yes.  
6 Q. And that one was the facilities that was  
7 providing food and lodging throughout the event;  
8 correct?  
9 A. Yes.  
10 Q. And I believe if you take a look at  
11 Exhibit 288, there was a release that was required  
12 to be signed on behalf of Angel Valley. Correct?  
13 A. Yes.  
14 Q. It similarly had some language in it  
15 providing notice of some of the activities;  
16 correct?  
17 A. Yes.  
18 Q. How many people were in the room that you  
19 were assigned to?  
20 A. Two other people.  
21 Q. Do you recall their names?  
22 A. No.  
23 Q. Were they nice rooms?  
24 A. Yes.  
25 Q. Clean?

1 A. Yes.  
2 Q. Free of spiders, insects, things of that  
3 nature?  
4 A. Yes.  
5 Q. The sweat lodge itself -- when you were  
6 inside of it, did it appear -- other than being on  
7 the sandy floor, did it appear to be clean and  
8 neat?  
9 A. There wasn't anything in it. It  
10 looked -- my impression was it was shabby.  
11 Q. And why so? How so?  
12 A. There were branches. There were  
13 mismatched wall coverings.  
14 Q. What I'm getting at is, the sandy floor  
15 appeared to be groomed and cleaned, and that pit  
16 was well dug; correct?  
17 A. I didn't really see the pit. But the  
18 ground was clean.  
19 Q. And you didn't see any spiders or insects  
20 or anything of that type; correct?  
21 A. No.  
22 Q. Or at any time throughout this ceremony;  
23 correct?  
24 A. No.  
25 Q. You told us that as the sweat lodge

1 ceremony began, you saw people who left at every  
2 round; correct?

3 **A. Yes.**

4 **Q.** In fact, I believe several people left on  
5 the first round? About three people?

6 **A. Yes.**

7 **Q.** Did you know Sylvia de la Paz?

8 **A. I don't know the name.**

9 **Q.** Do you know or do you remember her  
10 leaving on the first round?

11 **A. No.**

12 **Q.** Carl Nelson?

13 **A. No.**

14 **Q.** Louise Nelson?

15 **A. I know who she is. I didn't know that  
16 she was leaving on the first round. At the time I  
17 wasn't looking at the people who were leaving. I  
18 was just aware of bodies passing by.**

19 **Q.** And, again, all these people, as you  
20 described a few minutes ago, would not be able to  
21 stand up straight because of the height of the  
22 sweat lodge; correct?

23 **A. Right.**

24 **Q.** So they would either have to crawl out or  
25 scoot out on their haunches; correct?

1 **A. They were hunched over.**

2 **Q.** And you told Mr. Hughes that several  
3 times you saw people who were being helped out by  
4 others; correct?

5 **A. Yes.**

6 **Q.** And you thought those people were  
7 unconscious; correct?

8 **A. Correct.**

9 **Q.** Now, again, you were not making a medical  
10 assessment of their physical condition at that  
11 point in time; correct?

12 **A. Correct.**

13 **Q.** You were saying, sitting by the door,  
14 they appeared to you to be unconscious; correct?

15 **A. Well, they were being dragged. Yes. I  
16 assumed they were unconscious.**

17 **Q.** You would agree with me that a person can  
18 be fully alert, awake, lucid, and not have the  
19 strength to get out of the sweat lodge, so they  
20 needed to be dragged out; correct?

21 **A. That's correct. And that may have been  
22 the case.**

23 **Q.** And that same person could have their  
24 eyes closed as they were going out; correct?

25 **A. Correct.**

1 **Q.** Or somebody could be unconscious;  
2 correct?

3 **A. Correct.**

4 **Q.** So my point is you're not providing a  
5 medical opinion as to these people's condition.  
6 You're trying to describe to this jury what you saw  
7 with your own eyes; true?

8 **A. Yes.**

9 **Q.** And how many people -- I never got a  
10 number -- did you see throughout the course of  
11 eight rounds that were being assisted in some  
12 manner being taken out?

13 **A. I don't know.**

14 **Q.** I mean, was it one or two or six or  
15 eight?

16 **A. I would say more than that. More than  
17 one or two.**

18 **Q.** Less than 10?

19 **A. I would guess less than 10.**

20 **Q.** And this is sporadic throughout the  
21 course of the eight-round event; correct?

22 **A. Yes.**

23 **Q.** And during that time there are other  
24 people leaving completely on their own volition;  
25 correct?

1 **A. Yes.**

2 **Q.** And including you, after eight rounds;  
3 correct?

4 **A. Yes.**

5 **Q.** You didn't need any help getting out?

6 **A. No.**

7 **Q.** You made it all the way through. As  
8 these people were leaving, you're on one side of  
9 the door, Mr. Ray is on the other. And no one is  
10 stopping them from leaving; correct?

11 **A. No.**

12 **Q.** I mean, that is correct; right?

13 **A. Yes. It is correct.**

14 **Q.** No one closed the flaps, put rocks on it,  
15 tackled them as they were trying to get out,  
16 anything like that; correct?

17 **A. No, they did not.**

18 **Q.** Do you remember a chant when people  
19 left -- hi ya ya?

20 **A. Yes.**

21 **Q.** Isn't that Peruvian for something like,  
22 we honor you having made it this far?

23 **A. I don't remember what it meant.**

24 **Q.** You mentioned a point in time when in  
25 this complete darkness you saw light; correct?

1 **A. Yes.**  
 2 **Q.** And Mr. Ray mistakenly thought that that  
 3 was a flashlight; correct?  
 4 **A. Yes.**  
 5 **Q.** And he yelled out something to the  
 6 effect, turn off the light; you're breaking the  
 7 ceremony; correct?  
 8 **A. Yes.**  
 9 **Q.** You believe today that that was the  
 10 person leaving out the back side of the tent;  
 11 correct?  
 12 **A. Yes.**  
 13 **MR. HUGHES:** Your Honor, is there a question  
 14 pending on Exhibit 228?  
 15 **THE COURT:** I don't think there is.  
 16 **Mr. Kelly?**  
 17 **MR. KELLY:** No. Thank you, Judge.  
 18 **Q.** When you left the sweat lodge, you were  
 19 exhausted after this experience; correct?  
 20 **A. I was very hot and weak.**  
 21 **Q.** And you showed us on the exhibit the  
 22 direction that you came out. You recall that;  
 23 correct?  
 24 **A. Yes.**  
 25 **Q.** You were offered some water, which you

1 refused. And then you noticed Liz Neuman needed  
 2 some help; correct? I'm kind of summarizing  
 3 quickly.  
 4 **A. Yes -- yes.**  
 5 **Q.** That no one else was helping her at that  
 6 time?  
 7 **A. Correct.**  
 8 **Q.** And now you, I take it, go from the role  
 9 of a participant to the role as a doctor; correct?  
 10 **A. Yes.**  
 11 **Q.** And you took her pulse; correct?  
 12 **A. I did. I felt her pulse.**  
 13 **Q.** And you knew that she was breathing, that  
 14 she had a threaded pulse, that she was still alive;  
 15 correct?  
 16 **A. Yes.**  
 17 **Q.** What other physical attributes did you  
 18 notice on Ms. Neuman?  
 19 **A. Her skin was very, very cold. And I put**  
 20 **a towel over her.**  
 21 **Q.** Did you see any saliva foam coming from  
 22 her mouth?  
 23 **A. Yes.**  
 24 **Q.** And describe that. About how much?  
 25 **A. It was just bubbling. It was very clear.**

1 **It made it easy to make sure that she was**  
 2 **breathing.**  
 3 **Q.** And you said she was cold. So had she  
 4 been hosed down or water put on her?  
 5 **A. Yes.**  
 6 **Q.** You could tell that by her clothes being  
 7 wet?  
 8 **A. Right. And her skin temperature.**  
 9 **Q.** Did you see who did that?  
 10 **A. No, I didn't.**  
 11 **Q.** How long do you believe you were there  
 12 rendering medical assistance to Ms. Neuman before  
 13 the paramedics showed up?  
 14 **A. Again, I'm guessing a half an hour.**  
 15 **Q.** And was it, then, before you approached  
 16 Liz or after that you went up to my client and he  
 17 told you that 9-1-1 had been taken care of?  
 18 **A. It was before I went to Liz.**  
 19 **Q.** So when you were working on her, you had  
 20 a belief that the emergency medical responders were  
 21 going to show up; correct?  
 22 **A. I really wasn't sure what was happening.**  
 23 **He didn't tell me that 9-1-1 had been called. He**  
 24 **just said it had been taken care of.**  
 25 **Q.** And then they showed up after?

1 **A. Yes.**  
 2 **Q.** When you left, before you got out of the  
 3 sweat lodge, because of the manner in which you  
 4 entered, you were the last person to leave?  
 5 **A. Yes.**  
 6 **Q.** You heard during the course of the sweat  
 7 lodge ceremony itself Mr. Ray made reference to the  
 8 fact that there was a nurse outside. Do you recall  
 9 that?  
 10 **A. Yes.**  
 11 **Q.** Did you know that nurse?  
 12 **A. No.**  
 13 **Q.** This may be a silly question, then. When  
 14 you're out helping Liz Neuman, you don't know which  
 15 of these folks are nurses or not then; correct?  
 16 **A. Right.**  
 17 **Q.** Did you see Dr. Armstrong helping people?  
 18 **A. No.**  
 19 **Q.** And she could have been. You just didn't  
 20 see her?  
 21 **A. Well, I believe she was doing CPR.**  
 22 **Q.** Going back Lou Caci. Did you know him?  
 23 Did you get a chance to meet him during the event?  
 24 **A. Briefly.**  
 25 **Q.** When someone fell into the hot rocks, did

1 you know it was Lou?

2 **A. I don't know when I knew it was Lou.**

3 **Q.** You knew by his response that, in your  
4 opinion, he had been burned; correct?

5 **A. I heard other people say he had been  
6 burned.**

7 **Q.** Did he scream? Yell? Cry?

8 **A. As you said, there was a lot of noise in  
9 the tent. I don't know.**

10 **Q.** Let me tell you -- let me ask you this:  
11 You do know that no one said Doctor, we need some  
12 help over here; correct?

13 **A. Correct.**

14 **Q.** And Lou himself didn't say to either you  
15 or Dr. Armstrong, Doc, I need to be treated? I  
16 burned my arm? Anything like that; correct?

17 **A. No. But they didn't know I was a doctor.**

18 **Q.** Okay. I stand corrected. So no one at  
19 this event knew you were a doctor?

20 **A. I take it back. Dr. Armstrong.**

21 **Q.** She knew?

22 **A. She knew. And there were a couple of  
23 people who by things I had said in the past thought  
24 I might have some training of some sort. They  
25 didn't know what it was.**

1 **Q.** Regardless of what they knew, you knew  
2 you were a doctor?

3 **A. Yes.**

4 **Q.** And similar to my example with Mr. Li,  
5 you didn't see this event involving Lou as enough  
6 of a medical emergency for you to intervene as a  
7 doctor; correct?

8 **A. I probably would have gone outside to  
9 look if I hadn't been told there is a nurse there.**

10 **Q.** So that put your mind at ease; correct?

11 **A. Yes.**

12 **Q.** But then you told us when he came back in  
13 you were concerned; correct?

14 **A. Yes.**

15 **Q.** Same question. You weren't concerned  
16 enough that you went over to Lou and said, hey; I'm  
17 a doctor; maybe you shouldn't be in here; correct?

18 **A. No. I assumed that the nurse had  
19 assessed that and that had been taken care of  
20 outside.**

21 **Q.** So you didn't need to do that at that  
22 point; correct?

23 **A. Right.**

24 **Q.** You believed -- let me finish with  
25 Ms. Neuman. After you treated her and the

1 paramedics came and transported her, did you then  
2 go back to your room?

3 **A. Yes.**

4 **Q.** And after being in your room for a time  
5 period, did you go back to the Crystal Hall or some  
6 other gathering place to meet with the detectives?

7 **A. We went back to the lodge, where we had  
8 meals.**

9 **Q.** That was the location that everyone  
10 gathered to speak with the Yavapai County Sheriff's  
11 Office personnel; correct?

12 **A. Yes.**

13 **Q.** And you met with Detective Parkison;  
14 correct?

15 **A. Yes.**

16 **Q.** And you had a belief on that day that it  
17 may be toxins or carbon monoxide; correct?

18 **A. We'd heard rumors.**

19 **Q.** And you told Detective Parkison that you  
20 had to take a careful look at that in trying to  
21 figure out what happened to these people; correct?

22 **A. I said it certainly needed to be looked  
23 at.**

24 **Q.** That -- I think that's going to be  
25 incredibly important to sort that out. Do you

1 recall making that statement?

2 **A. Yes.**

3 **Q.** Also you made a comment that if it's heat  
4 exhaustion or heat stroke, a concern would be  
5 dehydration; correct?

6 **A. Yes.**

7 **Q.** And that's because as a medical doctor,  
8 you know that the two main criteria for heat stroke  
9 are dehydration and a raise in the internal core  
10 temperature of the body; correct?

11 **A. Correct.**

12 **Q.** So as an example, as a doctor, when a  
13 person comes in with a medical problem and you're  
14 doing your work in your office, you look for  
15 certain signs or symptoms before you provide an  
16 opinion as to what the particular problem is;  
17 correct?

18 **A. Yes.**

19 **Q.** I mean, we all go to doctors. You guys  
20 have to do that a lot; correct?

21 **A. Yes.**

22 **Q.** You would agree with me for heat stroke  
23 those are the two main criteria; correct?

24 **A. No. I'm not an expert in heat stroke.**

25 **Q.** But you got --

1 **A. Those are components.**  
 2 **Q.** You went to University of Washington.  
 3 That's a good school; correct? And those are the  
 4 two basic components; correct?  
 5 **A. Correct.**  
 6 **Q.** And you mentioned that to  
 7 Detective Parkison back in October of 2009?  
 8 Toxins, carbon monoxide, head exhaustion. My  
 9 concern would be the people had been dehydrated for  
 10 quite a while; correct?  
 11 **A. Yes.**  
 12 **Q.** And you didn't go to the hospital that  
 13 evening; correct?  
 14 **A. No, I didn't.**  
 15 THE COURT: Excuse me, Mr. Kelly. I'm going  
 16 to take a recess at this time.  
 17 MR. KELLY: Thank you, Judge.  
 18 THE COURT: Maybe take two shorter recesses  
 19 this afternoon.  
 20 Ladies and gentlemen, please remember the  
 21 admonition.  
 22 Dr. Wagoner, the rule of exclusion will  
 23 apply.  
 24 (Recess.)  
 25 THE COURT: The record will show the presence

1 of the defendant, Mr. Ray, the attorneys, the jury.  
 2 The witness has returned to the stand,  
 3 has previously been sworn.  
 4 MR. KELLY: Thank you, Doctor.  
 5 Thank you, Judge.  
 6 THE COURT: Mr. Hughes.  
 7 MR. HUGHES: Thank you, Your Honor.  
 8 REDIRECT EXAMINATION  
 9 BY MR. HUGHES:  
 10 **Q.** Doctor, you were asked questions about  
 11 your perception inside the sweat lodge as opposed  
 12 to Mr. Ray's perception? Do you recall that?  
 13 **A. Yes.**  
 14 **Q.** Was your perception about what was going  
 15 on in the sweat lodge affected in any way by the  
 16 fact that this was your first time in a sweat  
 17 lodge?  
 18 **A. I -- yes. I didn't know what to expect.**  
 19 **Q.** Had you been told some of the things that  
 20 might go on in that sweat lodge by Mr. Ray?  
 21 **A. Yes.**  
 22 **Q.** And do you recall what some of those  
 23 things were?  
 24 **A. He told us that it would be very, very**  
 25 **hot and that not to eat lunch because you'd get**

1 **sick.**  
 2 **Q.** Did he tell you people could vomit?  
 3 MR. KELLY: I would object to continuing  
 4 leading questions.  
 5 THE COURT: Sustained.  
 6 **Q.** BY MR. HUGHES: What were some of the  
 7 symptoms that he told you you might observe in  
 8 people inside the sweat lodge?  
 9 **A. He said you could vomit if -- if you**  
 10 **became -- if you ate lunch and were in the sweat**  
 11 **lodge.**  
 12 **Q.** Do you recall any other symptoms?  
 13 **A. No.**  
 14 **Q.** When you observed the things that you  
 15 testified about seeing and hearing inside the sweat  
 16 lodge, was that observation, then, affected by the  
 17 fact this was your first sweat lodge?  
 18 **A. Could you repeat the question, please.**  
 19 MR. KELLY: Your Honor, I'm going to object.  
 20 It's leading.  
 21 THE COURT: Overruled.  
 22 Mr. Hughes, go ahead and pose a question.  
 23 MR. HUGHES: Thank you.  
 24 **Q.** Was your perception, then, affected by  
 25 the fact this was your first sweat lodge?

1 **A. Yes.**  
 2 **Q.** You were asked some questions about if  
 3 Mr. Kelly or Mr. Li got sick here in the courtroom,  
 4 what would you do. What did you believe your role  
 5 to be inside the sweat lodge?  
 6 **A. I was solely focused on being there as a**  
 7 **participant about my own issues. I was not looking**  
 8 **to take care of people.**  
 9 **Q.** If you had observed signs and symptoms of  
 10 difficulties going on inside the sweat lodge that  
 11 you had not been briefed about, would you feel that  
 12 your role would have been different inside the  
 13 sweat lodge?  
 14 **A. I'm sorry. Can you repeat the question**  
 15 **again.**  
 16 **Q.** If you had observed difficulties with  
 17 people that you had not been briefed about by  
 18 Mr. Ray in advance, would that have changed your  
 19 opinion of your role inside the sweat lodge?  
 20 **A. Possibly. I wasn't paying attention -- I**  
 21 **wasn't paying attention as I would as a physician**  
 22 **in that situation.**  
 23 **Q.** You, I believe, told Mr. Kelly, we were  
 24 all focused on our own issues. I wasn't really  
 25 listening to anyone else. Do you remember that?

1 A. Yes.

2 Q. Can you tell the jury what you mean by  
3 that statement.

4 A. Well, when we were in the sweat lodge,  
5 during each round we were focusing on different  
6 aspects of issues we were trying to work on. So  
7 all our focus was on that particular issue. That  
8 didn't leave a lot of room to be paying attention  
9 to what other people were doing or not doing.

10 Q. In other words, were you looking for  
11 people in distress?

12 A. No. I was not looking for that.

13 Q. You were asked some questions about  
14 whether the people being dragged out through the  
15 entrance were conscious or not. Can you tell us  
16 how were they being dragged? Was it by their -- in  
17 other words, do you recall how they were being  
18 dragged?

19 A. They were being dragged by their arms.

20 Q. And it was your opinion on -- after  
21 watching them being dragged, that some of them were  
22 unconscious?

23 A. Yes.

24 Q. You were asked whether you could see  
25 anybody unconscious laying in the sweat lodge in

214

1 the location where you were sitting. Do you  
2 remember that question?

3 A. Yes.

4 Q. And then you were asked whether Mr. Ray  
5 had the same perspective where he was sitting. Do  
6 you remember that?

7 A. Yes.

8 Q. Could you see the unconscious persons in  
9 the sweat lodge when you were up by the fire pit in  
10 the location you testified to earlier? By that  
11 location, I'm referring to the location where you  
12 said Mr. Ray went to pour water on the rocks.

13 A. It was only after most of the tent had  
14 emptied out that I realized that there were people  
15 unconscious that was lying there. Initially  
16 everybody was lying down, so you couldn't tell who  
17 was conscious and who wasn't.

18 Q. And throughout that time until the tent  
19 emptied out, where were you located in the tent in  
20 the sweat lodge?

21 A. Right by the doorway.

22 Q. You were asked, when the sweat lodge was  
23 empty, why did you choose to exit in a clockwise  
24 direction? Can you tell us why you chose to do  
25 that.

1 A. There was a lot of -- it was stressed  
2 that it was a ceremonial rotation and that we  
3 should exit the same way we came in. And at the  
4 end I thought well, there is no -- I've made it  
5 this far. There is no hurry. I might just as well  
6 finish the ceremony as it was designed.

7 That was my intention as I started toward  
8 the back. And then once I realized there were  
9 unconscious people, I abandoned that plan.

10 Q. You mentioned that you believed that very  
11 few people knew that you were a doctor; is that  
12 correct?

13 A. Yes.

14 Q. Did you have a conversation with Mr. Ray  
15 about what you did for a living?

16 A. I had a conversation which I told him  
17 that I delivered babies.

18 Q. You were asked about Liz outside the  
19 sweat lodge. You mentioned that her skin was very,  
20 very cold.

21 A. Yes.

22 Q. At what point did you make the  
23 determination or did you observe that her skin was  
24 cold?

25 A. Shortly after sitting down next to her.

216

1 Q. And do you have any idea how many minutes  
2 that was after the sweat lodge ceremony had ended?

3 A. I don't know.

4 Q. You were asked if she was hosed down. Do  
5 you remember that?

6 A. Yes.

7 Q. As a doctor, frankly, as someone who  
8 lives in Alaska, if someone is wetted down and  
9 they're out in the cold, what happens to their  
10 skin?

11 A. It chills.

12 Q. Would that lower somebody's body  
13 temperature?

14 A. Well, the body -- the capillaries would  
15 constrict trying to hold heat into the internal  
16 organs. The skin would be cold.

17 Q. You were asked about criteria for  
18 hyperthermia. Do you remember that?

19 A. Yes.

20 Q. And you stated you're not an expert?

21 A. Correct.

22 Q. Had you had the opportunity or maybe the  
23 misfortune to have to treat someone with  
24 hyperthermia in your medical practice?

25 A. No.

1 Q. Do you know whether or not dehydration is  
2 one of the main criteria for heat stroke or  
3 hyperthermia?

4 A. That would be a component.

5 Q. You were asked some questions about your  
6 interview with a YCSO detective. Do you remember  
7 those questions?

8 A. Yes.

9 Q. And, specifically, you were asked whether  
10 you had concerns about high -- about dehydration  
11 due to the sweat lodge. Do you remember that?

12 A. Yes.

13 Q. Were you provided a copy of your  
14 transcript before you were asked those questions?

15 A. No.

16 MR. HUGHES: Your Honor, may I approach the  
17 witness?

18 THE COURT: Yes.

19 Q. BY MR. HUGHES: Ma'am, I'm showing you  
20 Exhibit 698, page 10. I think the question starts  
21 on line 2. And then your answer is after that.

22 Do you believe reviewing a transcript  
23 would refresh your recollection as to what you said  
24 to the detective that day?

25 A. Yes.

1 MR. HUGHES: Your Honor, may I?

2 THE COURT: Yes, you may.

3 Q. BY MR. HUGHES: Ma'am, have you had a  
4 chance to take a look at that transcript?

5 A. Yes.

6 Q. And I realize it's been some time since  
7 this interview. Was your concern expressed to the  
8 detective about dehydration from the sweat lodge or  
9 for something else?

10 A. Both. You see, we had come back from the  
11 quest, where there was no food or water. And then  
12 we had breakfast. And then we did not have lunch.  
13 And so there had been a prolonged period without  
14 food or water. And then -- so going into that  
15 people could have been dehydrated from the quest  
16 that we had been on.

17 Q. And that's what you told the detective;  
18 correct?

19 MR. KELLY: Your Honor, it misstates 698. If  
20 it's going to be read in part, I'd request the  
21 entire paragraph be referenced.

22 Q. BY MR. HUGHES: Ma'am, would you go ahead  
23 and read the question and your answer to the  
24 question.

25 A. Okay. So I've asked everybody. I

1 realize this is opinion, speculation on their part.

2 But any thoughts on what happened?

3 And I replied, well, I heard that there  
4 was speculation earlier about carbon monoxide or  
5 other toxins. I think that's going to be  
6 incredibly important to sort that out. I also  
7 heard more recently that it wasn't carbon monoxide.

8 So if it's heat exhaustion, then my  
9 concern would be that people had been dehydrated  
10 for quite a while before going into the sweat  
11 lodge.

12 Now, if they were told to  
13 hydrate -- although not why -- earlier in the day.  
14 So people had just come back that morning and their  
15 first meal since Tuesday night so -- and then they  
16 started at 2:00 o'clock. So there was only a few  
17 hours in which to hydrate. And they didn't serve  
18 lunch. But they didn't tell us at breakfast that  
19 they weren't going to serve lunch or anything.  
20 They said you're not going to have lunch. You're  
21 going to stay here and do things.

22 So I think -- you know -- people went  
23 into it not very well hydrated.

24 Q. Does that transcript -- does it appear to  
25 accurately portray what you recall telling the

1 detective?

2 A. Yes.

3 Q. Okay. Why did you make a point of  
4 telling the detective that the people were not told  
5 why to hydrate earlier in the day?

6 A. I thought -- when he told us to hydrate,  
7 my interpretation was, well, we've been out without  
8 water so he wants us to rehydrate. I didn't know  
9 that it was going to -- we were going to be  
10 stressed again with a sweat lodge.

11 And because there were so few bathroom  
12 breaks, I would have a tendency to not necessarily  
13 hydrate. But I chose in that situation to go ahead  
14 and hydrate.

15 Q. And then I hesitate to say finally  
16 because I may think of another question. I'm  
17 almost to the end.

18 You mentioned that you saw Dr.  
19 Armstrong -- is that correct? -- outside the sweat  
20 lodge?

21 A. I did not identify her as Dr. Armstrong  
22 at the time. I saw people rendering CPR. And when  
23 I talked to her at a later time, she said, I was  
24 over there giving CPR.

25 Q. Were you able to see to whom she was



1 administering CPR?  
 2 **A. No.**  
 3 MR. HUGHES: Thank you, Doctor. You've been  
 4 more than patient.  
 5 THE COURT: Thank you, Mr. Hughes.  
 6 Any questions for this witness?  
 7 Dr. Wagoner, please remain seated while I  
 8 get the jury questions.  
 9 Counsel, please approach the bench.  
 10 (Sidebar conference.)  
 11 THE COURT: Any objection on those,  
 12 Mr. Hughes?  
 13 MR. HUGHES: Other than it's a question I  
 14 should have asked.  
 15 MR. KELLY: Judge, my continuing objection is  
 16 relevance. The issue is manslaughter. I think  
 17 emergency preparedness or not, you commit  
 18 manslaughter when you -- we're going to be here  
 19 months and months asking questions to go into the  
 20 elements of the crime.  
 21 Can I read it again?  
 22 THE COURT: Yes.  
 23 MR. KELLY: Yeah. Okay. It's fine.  
 24 THE COURT: Thank you.  
 25 (End of sidebar conference.)

1 THE COURT: Dr. Wagoner, I will ask the  
 2 question.  
 3 The lawyers may wish to follow up.  
 4 Did you notice any signs of emergency  
 5 medical preparedness by either JRI or Angel Valley  
 6 at the Spiritual Warrior seminar with the possible  
 7 event of a medical emergency?  
 8 THE WITNESS: No. I did not.  
 9 THE COURT: Follow up, Mr. Hughes?  
 10 MR. HUGHES: No, Your Honor.  
 11 THE COURT: Mr. Kelly?  
 12 MR. KELLY: No. Thank you.  
 13 THE COURT: May Dr. Wagoner be excused as a  
 14 witness?  
 15 MR. HUGHES: Yes, Your Honor.  
 16 MR. KELLY: Yes.  
 17 THE COURT: Dr. Wagoner, you are excused as a  
 18 witness at this time. Remember the exclusion of --  
 19 the rule of exclusion of witnesses I explained to  
 20 you earlier.  
 21 Thank you.  
 22 THE COURT: Counsel?  
 23 MS. POLK: Your Honor, the state calls Dennis  
 24 Mehravar, please.  
 25 THE COURT: Counsel, I do want to break again

1 around 4:00 o'clock.  
 2 Sir, please step to the front of the  
 3 courtroom where the bailiff is directing you.  
 4 Raise you're right hand and be sworn by  
 5 the clerk.  
 6 DENNIS MEHRAVAR,  
 7 having been first duly sworn upon his oath to tell  
 8 the truth, the whole truth, and nothing but the  
 9 truth, testified as follows:  
 10 THE COURT: Please be seated here to my right.  
 11 Sir, would you please begin by stating  
 12 and spelling your full name.  
 13 THE WITNESS: Sure. Dennis. The last name is  
 14 Mehravar, M-e-h-r-a-v-a-r.  
 15 THE COURT: Thank you.  
 16 Ms. Polk.  
 17 DIRECT EXAMINATION  
 18 BY MS. POLK:  
 19 Q. Good afternoon, sir.  
 20 A. Good afternoon.  
 21 Q. Could I have you state your last name  
 22 again for us, please? Pronounce it for us.  
 23 A. Mehravar.  
 24 Q. Mehravar. Is that close?  
 25 A. Yes.

1 Q. Would you tell the jury where  
 2 approximately you live, what part of the country or  
 3 world.  
 4 A. I live in Kitchener, which is about 45 to  
 5 50 minutes from Toronto, Ontario, Canada.  
 6 Q. And how long have you lived up there?  
 7 A. Since November '89.  
 8 Q. What is your occupation?  
 9 A. I'm a real estate agent.  
 10 Q. You practice real estate up in Canada?  
 11 A. Yes, I do.  
 12 Q. Have you come, Mr. Mehravar, to know  
 13 Mr. James Ray?  
 14 A. Yes. I met first time Mr. James Ray in,  
 15 I believe it was 2007, and in Toronto. He was one  
 16 of the speakers in a big exhibition that included  
 17 other speakers.  
 18 Q. After hearing Mr. Ray at that event, did  
 19 you have further contact with him?  
 20 A. Yes. At that event I registered for  
 21 Mr. Ray's Harmonic Wealth Weekend, and I went to  
 22 Chicago for that event.  
 23 And after -- in that event I registered  
 24 for the two more events with him, which was Quantum  
 25 Leap and Practical Mysticism. And at Practical

1 **Mysticism I also registered for one more event. At**  
 2 **that time I also applied to be one of the volunteer**  
 3 **that they call "Dream Team."**

4 **Q.** Where was the one more event that you  
 5 registered for while you were at Practical  
 6 Mysticism?

7 **A. I don't remember.**

8 **Q.** Now, you attended Spiritual Warrior 2009  
 9 near Sedona, Arizona?

10 **A. That is correct.**

11 **Q.** When did you register for that?

12 **A. When I was volunteering for one of the**  
 13 **events.**

14 **Q.** Had you attended any of the Spiritual  
 15 Warrior seminars before?

16 **A. No.**

17 **Q.** When was it that you first volunteered as  
 18 a Dream Team member for a James Ray event?

19 **A. It was a Harmonic Wealth Weekend. And it**  
 20 **could have been Los Angeles or San Diego.**

21 **Q.** How many events held by Mr. Ray did you  
 22 Dream Team for?

23 **A. I've done two or three Harmonic Wealth**  
 24 **Weekends and one Creating Absolute Wealth.**

25 **Q.** Are you able to tell the jury how many

1 events total?

2 **A. Actually, may I make a correction?**

3 **Sorry.**

4 **Q.** Yes.

5 **A. I just remembered, when I was in Chicago,**  
 6 **I registered for Quantum Leap and Creating Absolute**  
 7 **Wealth. And then when I was at Creating Absolute**  
 8 **Wealth, I registered for Practical Mysticism.**

9 **Q.** Are you able to tell the jury how many  
 10 events total conducted by Mr. Ray you have attended  
 11 either as a participate or as a Dream Team member?

12 **A. I have participated in Harmonic Wealth,**  
 13 **Quantum Leap, Creating Absolute Wealth. Six**  
 14 **events. I was participating as an attendee like I**  
 15 **was in the -- basically. And three or four as a**  
 16 **Dream Team.**

17 **Q.** Did you pay to attend all of the events  
 18 that you attended as a participant?

19 **A. Yes, I did.**

20 **Q.** Did you pay to attend the events you  
 21 attended as a Dream Team member?

22 **A. No. We were -- we paid for our flight.**  
 23 **We paid for our food and stay, but we didn't pay to**  
 24 **be there.**

25 **Q.** Were you a member of the World Wealth

1 Society?

2 **A. I was for six months.**

3 **Q.** And when was that?

4 MR. LI: Objection, Your Honor. Relevance.

5 THE COURT: Overruled.

6 You may answer that question.

7 THE WITNESS: It was started probably

8 September and ended in March. Before the March  
 9 2009.

10 **Q.** BY MS. POLK: Did it end or did you end  
 11 your participation?

12 **A. I originally registered for one year, and**  
 13 **then I requested that I can cancel the six months**  
 14 **because I didn't pay fully for it. And I also**  
 15 **asked if I can apply that credit to pay for the**  
 16 **Spiritual Warrior, which they agreed to.**

17 **Q.** You paid to be a member of the World  
 18 Wealth Society?

19 **A. Yes, I did.**

20 MR. LI: Objection, Your Honor. Relevance.

21 THE COURT: Overruled on that question.

22 It was yes or no. I believe it was  
 23 answered, although there was talking at the time.

24 Sir, did you answer that?

25 THE WITNESS: Did I pay for it? Yes, I did.

1 **Q.** BY MS. POLK: You just mentioned to the  
 2 jury that you got credit when you cancelled your  
 3 membership that you used toward Spiritual Warrior?

4 **A. Yes. I only wanted it the first six**  
 5 **months. So I overpaid it. And the amount that was**  
 6 **overpaid was sufficient enough to cover for the**  
 7 **Spiritual Warrior.**

8 **Q.** How much, then, did you pay to attend  
 9 Spiritual Warrior 2009?

10 **A. It would have been around \$10,000.**

11 MR. KELLY: Excuse me, Judge. May Mr. Hughes  
 12 and I approach? Has nothing to do with this  
 13 witness.

14 THE COURT: Okay. Yes.

15 (Sidebar conference.)

16 MR. KELLY: Dr. Wagoner is in the courtroom.  
 17 I thought we had a rule.

18 THE COURT: Actually, she's excused. She's  
 19 done. She can stay. She has to follow the rule of  
 20 exclusion. She can't talk to other witnesses about  
 21 her testimony. But under the rule she's permitted  
 22 to stay.

23 MR. KELLY: Thank you.

24 THE COURT: Just a minute, Mr. Hughes. Be  
 25 sure you talk to her about that.

1 I confirmed, Mr. Kelly. I'm talking to  
 2 Mr. Hughes and Ms. Polk.  
 3 Make sure she understands that that  
 4 aspect of the rule still applies.  
 5 MR. HUGHES: I will.  
 6 MS. POLK: Judge, Mr. Kelly, before the end of  
 7 the day, I would like to take up the issue of the  
 8 civil complaint. I won't get into this this  
 9 afternoon in his testimony. But it needs to be  
 10 resolved before cross-examination. I don't know  
 11 when you want to take it up.  
 12 THE COURT: You know, I wanted an abbreviated  
 13 argument. We ended up talking close to 20 minutes  
 14 or more about it.  
 15 As far as cross-examination, I think  
 16 that's appropriate. If you want further argument,  
 17 you're not going to get it today. We better stop.  
 18 Well, then, the other thing to do is just  
 19 go till 4:30 or so and stop. However, just leave  
 20 enough time to cover that.  
 21 MS. POLK: I want the issues covered so we're  
 22 not delaying the jury tomorrow.  
 23 THE COURT: Counsel, we're going to recess  
 24 probably around 4:30 and take up the legal points.  
 25 Okay?

1 (End of sidebar conference.)  
 2 MS. POLK: May I proceed, Judge?  
 3 THE COURT: Yes.  
 4 Q. BY MS. POLK: Sir, let's talk about the  
 5 Spiritual Warrior 2009 seminar that you attended.  
 6 Do you recall what day you arrived in Yavapai  
 7 County on?  
 8 A. **I would say it was a Sunday.**  
 9 Q. Do you recall the dates of the seminar?  
 10 A. **No.**  
 11 Q. Does October 3rd to October 9th sound  
 12 about right to you?  
 13 A. **Yes, it does.**  
 14 MS. POLK: Your Honor, may I approach the  
 15 witness?  
 16 THE COURT: Yes.  
 17 Q. BY MS. POLK: Sir, I'm going to hand you  
 18 Exhibits 191 and 190.  
 19 Will you take a moment and take a look at  
 20 both of those exhibits, please?  
 21 A. **Yes.**  
 22 Q. Do you see your signature on both of  
 23 those exhibits?  
 24 A. **Yes.**  
 25 Q. Do you recognize those exhibits?

1 A. **Yes.**  
 2 Q. And what are they?  
 3 MR. LI: Your Honor, we'll stipulate to their  
 4 admission.  
 5 MS. POLK: Your Honor, I move for the  
 6 admission of Exhibits 190 and 191.  
 7 THE COURT: 190 and 191 are admitted.  
 8 (Exhibits 190 and 191 admitted.)  
 9 Q. BY MS. POLK: Sir, what are those two  
 10 documents? Do you recognize those?  
 11 A. **One is the waiver for Angel Valley, and**  
 12 **the other one is for James Ray International.**  
 13 Q. Do you remember when you signed the  
 14 waiver for James Ray International?  
 15 A. **I believe when we were going to get our**  
 16 **stuff, we had to sign it.**  
 17 Q. At what point?  
 18 A. **At the beginning. At the beginning.**  
 19 Q. At the beginning of the seminar?  
 20 A. **Yes.**  
 21 Q. Was any medical information taken from  
 22 you when you signed that waiver?  
 23 A. **No.**  
 24 Q. And was a physical examination required  
 25 for you to participate in the Spiritual

1 Warrior 2009?  
 2 A. **No.**  
 3 Q. At any point did you ever give any  
 4 medical information or physical information about  
 5 yourself to James Ray or James Ray International?  
 6 A. **No.**  
 7 Q. The time that you signed that waiver, did  
 8 you know that there was going to be a sweat lodge  
 9 ceremony?  
 10 A. **No.**  
 11 Q. And have you ever been in a sweat lodge  
 12 before?  
 13 A. **No.**  
 14 Q. You told the jury that you had attended  
 15 other James Ray events?  
 16 A. **That's correct.**  
 17 Q. Did you sign waivers for other James Ray  
 18 events?  
 19 A. **Yes.**  
 20 Q. Are you able to tell us whether or not  
 21 the waiver that you signed for other seminars was  
 22 the same as this waiver in front of you?  
 23 A. **I can't.**  
 24 Q. Do you know either way?  
 25 A. **I know it was a waiver, but I don't know**

1 **if it's the exact same one.**

2 **Q.** Did you always sign a waiver to attend a  
3 James Ray event?

4 **A.** Yes, I did.

5 **Q.** The jury has heard a lot about the events  
6 of the week. I'm not going to have you talk about  
7 each one.

8 Was there an event involving something  
9 called "Holosync"?

10 **A.** Yes, it was.

11 **Q.** And what was that?

12 **A.** It was a meditation we did with our  
13 headphone on. And it was like a sound or music  
14 that we listened to while we were sitting.

15 **Q.** What day did that occur?

16 **A.** I don't remember.

17 **Q.** Had you done that before?

18 **A.** No.

19 **Q.** When did you first learn that you would  
20 be doing meditation with earphones on?

21 **A.** We were -- we were told to bring our CDs  
22 and the tape if we have. I didn't have the CD that  
23 played that specific music or meditation, so I was  
24 given one by one of the Dream Team.

25 **Q.** What was on the CD?

234

1 **A.** It was sounds like a drums, rain. Kind  
2 of irritating I would say.

3 **Q.** What was the last thing?

4 **A.** Irritating.

5 **Q.** Irritating?

6 **A.** To my ears.

7 **Q.** What was irritating about it to you?

8 **A.** It just kind of bothered me to listen to  
9 it. I don't know why that was my reaction.

10 **Q.** How long did this meditation with sound  
11 coming in through earphones last?

12 **A.** I believe it was 20 minutes. That's my  
13 best guess.

14 **Q.** And you said that it bothered you. In  
15 what way did it bother you?

16 **A.** I don't know. I felt irritated. I  
17 wanted to remove it from my head. It wasn't  
18 feeling good. It wasn't something that you would  
19 choose as something to listen to, I think.

20 **Q.** You said you wanted to remove it from  
21 your head. Do you mean the earphones?

22 **A.** Yes.

23 **Q.** Did you remove the earphones from your  
24 head?

25 **A.** No. I stayed. I listened to it.

1 **Q.** Why did you not remove the earphones when  
2 this bothered you?

3 **A.** Because -- because I thought it's  
4 something Mr. Ray wanted me to do. There is logic  
5 or some sort of benefit at the end for me.

6 **Q.** Did Mr. Ray ever tell you what the  
7 benefit would be?

8 **A.** If I recall -- again, I may be recalling  
9 wrong. So I just want to know. I think it was for  
10 us to connect with our higher conscious mind.

11 **Q.** Throughout the Spiritual Warrior 2009  
12 week, were there opportunities for you, as  
13 participants, to speak to Mr. Ray through an  
14 open-mic session?

15 **A.** Yes, it was.

16 **Q.** And did you speak during one of those  
17 open-mic sessions?

18 **A.** Yes, I have.

19 **Q.** Did you speak specifically about what you  
20 just told the jury about your discomfort with this  
21 meditation exercise?

22 **A.** Yes, I did.

23 MR. LI: Your Honor, subject to our  
24 discussions earlier today.

25 THE COURT: Correct.

236

1 **Q.** BY MS. POLK: Mr. Mehravar, prior to  
2 taking the stand today, did you have the  
3 opportunity to examine and listen to Exhibit 749,  
4 this CD?

5 **A.** Yes, I did.

6 **Q.** And is what is on that audio, does it  
7 accurately reflect what you said when you took the  
8 open mic?

9 **A.** Yes, it does.

10 **Q.** And who is it that responds, then, on the  
11 audio to you after you talked?

12 **A.** Mr. Ray.

13 **Q.** Did you listen to that portion of this  
14 audio as well?

15 **A.** Yes, I did.

16 **Q.** Does it accurately reflect what Mr. Ray  
17 said in response to what you said?

18 **A.** Yes.

19 MS. POLK: Your Honor, I move for the  
20 admission of Exhibit 749.

21 THE COURT: Subject to the prior discussion?

22 MR. LI: Yes, Your Honor.

23 THE COURT: Okay. 749 is admitted.  
24 (Exhibit 749 admitted.)

25 MS. POLK: I request permission at this time

1 to play it for the jury.

2 THE COURT: You may.

3 MR. LI: May I approach?

4 THE COURT: Yes.

5 (Exhibit 749 played.)

6 Q. BY MS. POLK: Sir, after that

7 conversation with Mr. Ray and his response to you,

8 did you learn something from Mr. Ray about being

9 uncomfortable?

10 MR. LI: Objection. Leading.

11 THE COURT: Sustained.

12 Q. BY MS. POLK: Did you learn something

13 from Mr. Ray, when he responded to your concern

14 about your concern or discomfort with this Holosync

15 exercise?

16 A. **In all the seminars that I attended with**

17 **Mr. Ray, there is always the element that you push**

18 **yourself to the limit. And that's how you expand**

19 **your circle of knowledge. So, yes. That was**

20 **acceptable to me.**

21 Q. Are you able to explain to the jury your

22 understanding of why pushing yourself physically

23 results in expanding your knowledge?

24 A. **Mr. Ray always believed that we do need**

25 **experiences for our unconscious mind to grow**

1 **because that's how we relate to our unconscious**

2 **mind. Our unconscious mind grows with our -- below**

3 **the unconsciousness. Nothing replaces experiences**

4 **as we go through events.**

5 Q. Did you trust Mr. Ray?

6 A. **Of course I did.**

7 Q. Was that as a result of all of your

8 experiences with him?

9 MR. LI: Objection. Leading.

10 THE COURT: Sustained.

11 Q. BY MS. POLK: Why did you trust Mr. Ray?

12 A. **I had no doubt not to trust. There was**

13 **no reason not to trust Mr. Ray. I've been all his**

14 **events. I have dream teamed for him. And even**

15 **when I had a doubt, he proved me that I was wrong**

16 **and he was right. So I had no reason not -- to**

17 **doubt anything.**

18 Q. Did you participate in the event called

19 the "Samurai Game"?

20 A. **Yes, I did.**

21 Q. Did you also participate in the Vision

22 Quest?

23 A. **Yes, I did.**

24 Q. Did you have anything to eat or drink

25 during the 36 hours of the Vision Quest?

1 A. **No, I didn't.**

2 Q. After you came in from the Vision Quest,

3 did you get something to eat or drink?

4 A. **I had probably maybe a tea or very small**

5 **maybe toast or something. But not a full**

6 **breakfast. No.**

7 Q. The morning that you came in from the

8 Vision Quest was Thursday?

9 A. **That was the last day we came that**

10 **morning. Yes.**

11 Q. And that day did you learn that you would

12 be doing the sweat lodge?

13 A. **I learned before the sweat lodge that we**

14 **are doing sweat lodge.**

15 Q. How much time -- how much sooner than the

16 sweat lodge did you learn you would be doing a

17 sweat lodge?

18 A. **Probably an hour.**

19 Q. Were you able to do anything to prepare

20 yourself for the sweat lodge?

21 A. **I just drink water as much as I can.**

22 Q. Within that hour?

23 A. **Yes.**

24 Q. Were you able to do anything else to

25 prepare yourself mentally or emotionally for the

1 sweat lodge?

2 A. **No.**

3 Q. Where were you when you learned that you

4 would be doing a sweat lodge?

5 A. **I was standing in the classroom toward**

6 **the back.**

7 Q. Did Mr. Ray say anything to you about

8 what to expect in the sweat lodge?

9 A. **Mr. Ray said, it's going to be very, very**

10 **hot, and it feels like your skin is going to come**

11 **off, and it feels like you're dying.**

12 Q. Sir, I'm going to show you what's marked

13 as Exhibit 747, again, another CD.

14 A. **Yes.**

15 Q. Before coming into this courtroom and

16 taking the stand, did you have an opportunity to

17 listen to what is on this CD?

18 A. **Yes, I did.**

19 Q. Does that -- what is on that CD

20 accurately reflect what Mr. Ray told you and other

21 participants about what to expect about the sweat

22 lodge?

23 A. **Yes, it does.**

24 MS. POLK: Your Honor, I move for the

25 admission of Exhibit 747.

1 THE COURT: Mr. Li?

2 MR. LI: Subject to our discussion, Your  
3 Honor.

4 THE COURT: I'm going to need to see counsel  
5 to clear that.

6 (Sidebar conference.)

7 THE COURT: I just want to make sure I  
8 understand the scope of the discussion. There was  
9 a discussion about playing all of it instead of  
10 pieces of it and then not replaying it  
11 unnecessarily.

12 MR. LI: Correct, Your Honor.

13 THE COURT: And I want to know whatever  
14 objections you have to it.

15 MR. LI: We want to reserve all the objections  
16 we made relating to producing.

17 THE COURT: Sorry?

18 MR. LI: We wanted to reserve all of our  
19 objections relating to producing -- relating that  
20 not only purchases, relating to -- you know --  
21 hearsay and all other aspects. But we just wanted  
22 to preserve our objection.

23 THE COURT: I'm not aware of any hearsay  
24 aspect of it.

25 MR. LI: To the extent there are audible

1 members participating in the discussion.

2 THE COURT: See, that's a problem. No one has  
3 ever called to my attention particular hearsay  
4 aspects. And that's what I don't want to get into.

5 If we can't play this because there might  
6 be -- I want specifically to know. Because I have  
7 handled the disclosure issue, the completeness  
8 issue.

9 You want under 106 to have the whole  
10 context. And now if you're saying there is  
11 specific hearsay things, I need to know and I need  
12 to rule on it.

13 MR. LI: Towards the end there is hearsay.  
14 Toward the middle one word. Towards the end there  
15 is hearsay. Folks are just talking.

16 THE COURT: I'm not going to let it be played  
17 and have hearsay come out, an objection out there  
18 that I can't deal with. I don't want to do that.  
19 If it's not --

20 MR. LI: Your Honor, it's the same as the  
21 other issue that we have, which is, essentially,  
22 there. If it's the Court's ruling that it's  
23 relevant, it should be played, the whole thing  
24 should be. To the extent there is hearsay, we're  
25 not waiving our objections to hearsay. The whole

1 thing needs to be played.

2 THE COURT: It can't be played on that basis.  
3 I'm not going to play it if there is a hidden  
4 hearsay objection in there.

5 Ms. Polk, do you have something else?

6 MS. POLK: Your Honor, what is -- what is on  
7 here that mostly is Mr. Ray's statement. There are  
8 a couple questions on here from a participant. For  
9 example, should we wear jewelry or something about  
10 taking water inside. I can't remember.

11 None of it would be offered to prove the  
12 truth of the matter asserted by the case.

13 I'm only playing them because Mr. Li  
14 insisted under Rule 106 that the complete thing be  
15 played. And so that's why I complied by making the  
16 complete audio.

17 However, I would assert that the  
18 statements on here or the questions by participants  
19 is not hearsay because it is not being offered to  
20 proof of the matter asserted. They are merely  
21 questions to Mr. Ray that he responds to.

22 THE COURT: Mr. Li, do you have any  
23 specific --

24 MR. LI: We reserve our objection. I don't  
25 recall exactly what the conversations are at the

1 end of the tape. One thing they can do is stop it  
2 before the end of the tape where the people are  
3 asking questions and what have you.

4 Mr. Mehravar is here -- and I understand  
5 it's a different issue. But Mr. Mehravar is here.  
6 His basic tape that was played was a question. And  
7 we preserved our hearsay objection only in place of  
8 the Court's ruling that was relevant. And we just  
9 didn't think you could play some of it but not all  
10 of it.

11 THE COURT: I don't think you did preserve any  
12 hearsay objection there. You wanted it presented  
13 in that fashion. If you don't have any specific  
14 objections at this point, then I'm not hearing any  
15 specifics that was said that's actually hearsay  
16 offered for the truth. So --

17 MR. LI: Well, I think --

18 THE COURT: It doesn't appear to have specific  
19 hearsay objections preserved.

20 MR. LI: I'm not waiving them. And so I  
21 think --

22 THE COURT: It's not going to be played.

23 MR. LI: I think what happens at the end, Your  
24 Honor, one of the people say something to the  
25 effect, I have high blood pressure. That would be

1 offered for the truth of the matter asserted. And  
2 will this affect me? And that's hearsay.

3 MS. POLK: Your Honor, I have offered clips.  
4 Mr. Li objected to the clips, insisted under 106  
5 the entire briefing be played. We've now prepared  
6 the audio of the entire briefing to be played.

7 THE COURT: Well, with regard to the blood  
8 pressure, that's, again, not necessarily offered  
9 for the truth, is it?

10 MR. LI: It is.

11 MS. POLK: I don't know that that conversation  
12 is on here. I don't recall it being on here.

13 MR. LI: I think it is at the end. Someone  
14 says at the end, I have high blood pressure. Is  
15 this going to affect my blood pressure? And  
16 Mr. Ray says -- you know -- you have to take -- you  
17 have to make your own decision.

18 MS. POLK: I'm not sure that's on there. If  
19 that's on there, the defense has been bringing out  
20 that specific testimony with every witness.

21 And in an attempt to establish that  
22 Mr. Ray told participants to take care of  
23 themselves, if it's on here, the state's not  
24 offering it to prove that someone had high blood  
25 pressure anyway.

1 THE COURT: There would be an instruction  
2 offered at some point.

3 MR. LI: Here's the problem: I'm not sure we  
4 had an opportunity to listen to the last 10 seconds  
5 or three minutes of this tape. I don't want to  
6 cause more trouble. We can deal with this  
7 tomorrow. I don't want to drag this out. He's got  
8 plenty of testimony to give.

9 But -- you know -- there are hearsay --  
10 there is hearsay at the end. It's our position --  
11 you know what our position is.

12 THE COURT: And you don't need to restate  
13 that. I'm just saying -- I'm not going to proceed  
14 if there is some hidden objection in there.

15 Now, you're saying you haven't heard it.

16 Ms. Polk, do you have something else to  
17 ask about? We're going to recess in 35 minutes  
18 anyway.

19 MS. POLK: Your Honor, I was going to talk to  
20 him about the sweat lodge. And I think playing  
21 this briefing before he talks about what happens in  
22 the sweat lodge is appropriate.

23 I have to say this is a little  
24 frustrating.

25 THE COURT: It is.

1 MS. POLK: I tried to work this out with  
2 Mr. Li. We corresponded back and forth yesterday  
3 evening. I prepared the entire audio. He stood up  
4 in court and said he wanted it played. I got it  
5 ready to play, and he says hearsay.

6 MR. LI: It's fairly straightforward. I'm  
7 reserving the objection. The Court can make  
8 whatever rule it wants to make. We've asserted  
9 objections to all of this for all of the various  
10 reasons we talked about.

11 We're not waiving the objections. We  
12 understand the Court's rule, and we complied with  
13 the Court's rule. That's the one thing I'm saying.

14 THE COURT: You've informed me of this blood  
15 pressure statement. There can be an appropriate  
16 instruction upon question.

17 We can proceed.

18 MS. POLK: May I play it, yes?

19 THE COURT: Yes.

20 MS. POLK: Are you going to read a limiting  
21 instruction?

22 THE COURT: No.

23 (End of sidebar conference.)

24 (Exhibit 747 played.)

25 MS. POLK: Your Honor, would you like to break

1 at this time?

2 THE COURT: I would. Thank you. Ms. Polk.  
3 Ladies and gentlemen, we will take the  
4 evening recess at this time. Remember the  
5 admonition. And we will reassemble at 9:15.

6 I want to talk to Mr. Mehravar about the  
7 rule of exclusion of witnesses that's been invoked.  
8 That means you cannot talk about your  
9 testimony or this case with any other witness until  
10 the trial is over.

11 It's a good idea not to talk to anyone  
12 about the case until it is completed, except you  
13 can talk to the lawyers as long as another witness  
14 is not present at the time.

15 Do understand that?

16 THE WITNESS: I do.

17 THE COURT: Also if there are other witnesses  
18 around while you're here testifying, you really  
19 should not communicate with them at all under the  
20 circumstances while the trial is in progress.

21 Do you understand?

22 THE WITNESS: I do.

23 THE COURT: Thank you.

24 I'm going to ask that the parties remain.

25 Mr. Mehravar, you and the jury are

1 excused. And you may leave the courtroom at this  
2 time.

3 (Proceedings continued outside presence  
4 of the jury.)

5 THE COURT: The record will show the presence  
6 of Mr. Ray and the attorneys.

7 Just want to mention a couple of things  
8 before we start on that issue of the civil suit.

9 The jury, of course, is not here.

10 With regard to the record we were making  
11 at the bench, I looked at the realtime. And I want  
12 to clarify what I had said. I wanted to make sure  
13 we get a good record. We have this set up so the  
14 sidebars can be recorded.

15 And I want to encourage Mina, anytime  
16 something is not being heard, people are talking  
17 over one other, to let us know so we can get a  
18 clear record.

19 I indicated that there can be an  
20 appropriate instruction and that limiting  
21 instruction upon request. Mr. Li hasn't  
22 technically requested that, but Ms. Polk said can  
23 you play the recording? I said yes. And it is  
24 admitted.

25 I want to clarify to the clerk that that

250

1 exhibit is admitted.

2 Mr. Li has made his record on what the  
3 objections are. And then Ms. Polk asked me, are  
4 you going to read the limiting instruction? And  
5 the realtime said no. And then I must have backed  
6 away. I said not at this time. Because I will  
7 read a limiting instruction.

8 Mr. Li, if you prepare that, I'll read  
9 it. But I actually hardly got into that.

10 MR. LI: Let's -- we can go back to the ranch,  
11 and we'll figure out what the best approach would  
12 be.

13 THE COURT: Okay. I also want to note when I  
14 talked about frustration, it's not directed at  
15 anybody, not either party. It was just an  
16 observation that was made.

17 So if we can take up the issue, Ms. Polk,  
18 that you wanted to discuss.

19 MS. POLK: Your Honor, I actually have two  
20 issues here. And I'd like to address the first one  
21 because I have one of my deputies here from the  
22 office.

23 It is with regard to Yavapai County  
24 Sheriff's Office Deputy Joe Sutton, who the state  
25 has listed as a witness. From my office,

1 Prosecutor Chris Anderson is here. He just  
2 reported to me that he did an interview this  
3 afternoon with Deputy Sutton in another case.

4 That the interview was conducted at the  
5 conference room in my office here in the Verde.  
6 And that in the background on the TV, there  
7 apparently is a live stream to this trial. So that  
8 Deputy Sutton, when he was being interviewed by a  
9 defense attorney, his back was to the TV screen.

10 But it was this trial that was going on,  
11 and the sound was not running. But we can  
12 certainly clarify that with Mr. Anderson, my  
13 deputy.

14 What happened was the defense attorney  
15 was appearing telephonically. She was interviewing  
16 Deputy Sutton telephonically. About seven minutes  
17 into it, she had to go tend to something. At which  
18 point Deputy Sutton turned around, saw the screen,  
19 and then told Mr. Anderson that he was a witness in  
20 the case and he was not supposed to be exposed to  
21 exposure. And then they then turned the TV off.  
22 But I wanted to report that that incident had  
23 happened.

24 THE COURT: Okay.

25 Mr. Li, if you will note that.

252

1 MR. LI: Thank you, Your Honor.

2 THE COURT: Another matter, Ms. Polk?

3 MS. POLK: Thank you. The other matter, Your  
4 Honor, is the complaint. It's called the "First  
5 Amended Complaint." We spoke about it this  
6 morning. And it's a complaint file by Sidney  
7 Spencer and Mira Mehravar, file by Attorney Ted  
8 Schmidt. I believe that the defense has had this  
9 complaint marked as an exhibit.

10 And as I told the Court, this was emailed  
11 to the state last night.

12 I agree with the Court that it is fair  
13 examination, exploration into possible motive or  
14 bias that a witness has filed a lawsuit against a  
15 party.

16 However, I believe that the complaint  
17 itself is hearsay. And I believe it would be  
18 prejudicial for the defense to even offer it, to  
19 show it to him in any manner, unless he denies  
20 having filed the lawsuit. And I object.

21 I'm doing this out of the presence of the  
22 jury, making my objection now, because I believe it  
23 would be prejudicial for them to attempt to show  
24 this complaint, which is clearly hearsay, and make  
25 my objections in front of the jury.



1 This complaint, Your Honor, that was  
2 provided to the state last night, is not signed by  
3 the witness, Dennis Mehravar. It is signed by  
4 Attorney Ted Schmidt.

5 It would all be hearsay as to the details  
6 of it and clearly inadmissible. I believe the  
7 witness will testify that he filed the lawsuit.  
8 The lawsuit has been settled. According to the  
9 witness, Mr. Ray asked for the confidentiality  
10 agreement.

11 And that raises the second issue for me,  
12 Which is I believe the state should be entitled to  
13 inquire about the terms of the settlement.  
14 However, there is a confidentiality agreement in  
15 place that would prevent that witness from  
16 answering.

17 And so as a second part to this issue, I  
18 would ask the Court to allow the witness to answer  
19 questions about what the terms of the settlement  
20 were.

21 THE COURT: Thank you.

22 Mr. Li, are you going to address this?

23 MR. LI: When the state says that we're not  
24 allowed to show it, I don't quite understand what  
25 that means.

1 Does that mean we can't approach the  
2 witness with it if he denies the existence of a  
3 lawsuit that his lawyer filed on his behalf? Or  
4 does it mean that we can't move it into evidence  
5 and publish it to the jury?

6 I just want to make sure I understand  
7 what the terms of the debate are.

8 THE COURT: Ms. Polk, what did you mean?

9 MS. POLK: Your Honor, I believe if the  
10 witness admits -- agrees that he has filed a  
11 lawsuit, then it would be improper to try to  
12 approach the witness with any extrinsic evidence of  
13 that lawsuit, which would be this complaint.

14 MR. LI: Again, the question is, whether or  
15 not we can ask him about the details of his  
16 particular lawsuit. I don't think there is any  
17 rule that would preclude us from asking him those  
18 exact questions.

19 I don't think it's our intention to move  
20 it into evidence, the actual lawsuit itself. We  
21 need to mark it so that we can identify what we're  
22 showing the witness so the record is clear.

23 THE COURT: Yes.

24 MR. LI: But we -- I don't believe there is  
25 any basis to preclude us from questioning him about

1 what he alleges. Or the existence of the lawsuit  
2 or his motivations or his bias or any of these  
3 things.

4 THE COURT: I think that's proper  
5 cross-examination. And I don't think we're  
6 probably going to get to the extrinsic evidence  
7 part of this.

8 But Ms. Polk.

9 MS. POLK: Your Honor, I believe it would be  
10 improper to question a witness with a document that  
11 itself is hearsay and inadmissible.

12 Specifically, I anticipate what the  
13 defense wants to do is go through each and every  
14 allegation made in this lawsuit and have the  
15 witness either admit or deny or somehow talk about  
16 it.

17 Everything that is in this lawsuit is  
18 hearsay. It's written by an attorney, not by this  
19 witness. It is a pleading. It's not factual. It  
20 was filed one month after the incident.

21 And I believe there are specific  
22 paragraphs in here that the defense wants the jury  
23 to hear but for an improper purpose.

24 These allegations are made by an  
25 attorney. They're allegations against James Ray,

1 James Ray International, the Hamiltons and the  
2 Angel Valley Retreat Center.

3 And it has all sorts of allegations that  
4 are not part of this case. And they are not facts.  
5 They are simply allegations made by an attorney.

6 This is not a document signed by this  
7 witness. This document has not been adopted in any  
8 way by this witness. This is clearly hearsay.

9 What is relevant is has this witness  
10 filed a lawsuit? Has it been settled? And what  
11 are the terms of the settlement?

12 But to use this document, this hearsay  
13 document, and to go through it paragraph by  
14 paragraph trying to get the witness to admit or  
15 deny, but more specifically trying to read the  
16 language of the lawsuit to the jury, is hearsay.

17 It's not this witness's statement and is  
18 clearly inadmissible.

19 THE COURT: I didn't know that Mr. Li wanted  
20 to read the paragraphs.

21 MR. LI: I don't think we're going to read  
22 paragraph by paragraph.

23 But just to point -- the point of  
24 clarification. One. The lawsuit is not completely  
25 settled. The witness still has an ongoing lawsuit

1 against Angel Valley and the Hamiltons, and it's  
2 not completely settled.

3 But more importantly -- you know -- this  
4 lawsuit filed on your behalf are your statements.

5 You know, I've never heard of the  
6 argument being made that a complaint filed on a  
7 party's behalf is not owned by the party. It's a  
8 complaint.

9 I understand if there is some technical,  
10 legal argument in some random brief, you might be  
11 able to make some argument like that. I don't  
12 think you actually can. But maybe you can make an  
13 argument like that with respect to some random  
14 motion or something like that.

15 This is a complaint where a man is asking  
16 for money. And I'd never heard anybody, much less  
17 the state, ever argue that a person's demand for  
18 money is not a proper area of cross-examination.  
19 Just never heard of it.

20 THE COURT: I didn't hear that from the state,  
21 Mr. Li.

22 MR. LI: But there are specific allegations  
23 that the claimant makes. That's the point.

24 THE COURT: Let's talk a few specifics in the  
25 next five minutes, if we could.

1 What are the allegations that are of  
2 concern, Ms. Polk?

3 MS. POLK: Your Honor, this complaint is 18  
4 pages long.

5 And, for example, Paragraph XXVII, Roman  
6 numeral XXVII alleges -- and this is just a  
7 statement. It's on Page 6.

8 It alleges the sweat lodge ceremony  
9 exposed plaintiffs Sidney Spencer and Dennis  
10 Mehravar to extreme heat, inadequate hydration,  
11 oxygen and toxic fumes.

12 Paragraph XXXII alleges that defendants  
13 constructed the sweat lodge without adequate  
14 ventilation, light or temperature monitoring  
15 device.

16 And there is Paragraph XXXVII. Talks  
17 about the duty -- Paragraph XXXVIII -- defendants  
18 had a duty to plaintiffs to provide a safe place  
19 for plaintiffs to conduct the business activity  
20 that they paid for. And defendants, of course,  
21 including Angel Valley, negligently failed to meet  
22 that duty.

23 And then Paragraph XXXIX states,  
24 defendants negligently and carelessly constructed a  
25 sweat lodge on the premises of Angel Valley

1 Spiritual Retreat Center without proper permitting  
2 and inspection by applicable government  
3 authorities.

4 Your Honor, it goes on for 18 pages.

5 All of this is hearsay.

6 Dennis Mehravar is not a party opponent  
7 making any statements admissible as admissions by a  
8 party. He is a witness.

9 I agree that it would be proper to  
10 examine any motive or bias by asking about a  
11 lawsuit. But to read any of this to Mr. Mehravar,  
12 these are hearsay statements, classic hearsay, not  
13 adopted by this witness in any form, not made by  
14 him, not signed by him and clearly inadmissible.

15 And, Your Honor, I do want to go back to  
16 the issue of disclosure violations. If this had  
17 been disclosed to the state, then the state would  
18 have had time to make a proper motion in limine.

19 The reason we're dealing with this now in  
20 the middle of trial is because it was just sent to  
21 the state last night.

22 THE COURT: As an exhibit, it's disclosed late  
23 and not in compliance with Rule 15.6.

24 MR. LI: Your Honor, I'm not going to use the  
25 word "umbrage" again, but the problem --

1 THE COURT: I didn't say it was. Unless  
2 you're trying to put it in, it's not a violation.  
3 Right now it's not. But to offer it as an exhibit.

4 Mr. Li, are you saying you complied with  
5 Rule 15.6?

6 MR. LI: No, Your Honor. All I'm  
7 saying is -- what I've been saying, I think, from  
8 the beginning of this particular hearing is that  
9 you need to identify it so that you can walk up to  
10 the witness if you need to refresh his recollection  
11 with it or whatever. You need to be able to have a  
12 record that will show this. I'm not moving it into  
13 evidence.

14 It's simply the man filed a lawsuit. He  
15 asked for money. He made a bunch of allegations in  
16 the lawsuit. Those are all relevant, Every single  
17 one of the allegations.

18 It defies imagination that a person can  
19 walk away from a lawsuit filed on his behalf, or  
20 damages, that you cannot walk away from that. That  
21 is unless he's going to take the stand and say,  
22 actually, that his lawyer filed it without his  
23 authorization. And I still get to ask him about  
24 it.

25 THE COURT: So you want to ask him something

1 like this: Isn't it true that you think that this  
2 could have been caused by toxins? Do you want to  
3 be able to ask him questions?

4 MR. LI: I don't know where he's going to go,  
5 Your Honor. But the questions are, did you file a  
6 lawsuit? Did you seek damages? At what point did  
7 you do this?

8 Did you believe that -- did you sue Angel  
9 Valley? Did you sue Mr. Ray? Did you sue JRI?  
10 Did you say that you believe that blah, blah, blah  
11 were the basis of your lawsuit that there was  
12 negligence in the construction, that you were  
13 exposed to heat, toxins, et cetera? That's what he  
14 says.

15 THE COURT: I was with you until you get to  
16 that point. What would his possible basis of  
17 knowledge -- attorneys draft pleadings. And they  
18 have to file them in good faith. And his attorney  
19 may do some research and think this is a good-faith  
20 basis for a claim that will survive the civil  
21 rules, and then somehow that becomes his own  
22 belief.

23 MR. LI: Well, Your Honor, I would never file  
24 a lawsuit without showing it to my client, No. 1.

25 Number two, this is his statement. This

1 is how -- when a plaintiff makes a demand for  
2 money, if we were in a deposition or any other sort  
3 of context, I would get to ask him about the  
4 allegations made in his complaint.

5 That is in every courtroom in America  
6 that would be the case. And in every deposition,  
7 anything, you would get to ask a guy -- you know --  
8 what did you allege? That is absolutely  
9 permissible.

10 I mean, Your Honor, the problem with this  
11 is we are in the context of a criminal trial. And  
12 the state is literally taking the position that we  
13 can't cross-examination a person who does have  
14 potential bias and motive, et cetera, and has taken  
15 the position that we can't ask him about a lawsuit  
16 that he filed.

17 And they're also -- they continue to  
18 bring up this purported discovery violation. We  
19 only produced this yesterday to make sure we didn't  
20 have any problems.

21 But the real issue is this: That Mr. Ray  
22 has a right to ask any witnesses about potential  
23 bias -- you know -- in their testimony. And this  
24 is potential bias. And all of the allegations in  
25 this particular document are relevant to those

1 issues.

2 I've never seen ever a witness -- you  
3 know -- a defence attorney precluded from asking a  
4 witness who has filed a lawsuit -- from asking that  
5 witness about allegations in their lawsuit.

6 THE COURT: Technical legal/factual matters  
7 that are contained in a formal complaint -- you're  
8 saying that's routinely the subject of  
9 cross-examination.

10 MR. LI: Your Honor, I understand what the  
11 Court -- I don't want. There is a rule of  
12 reasonableness here. I'm not saying the  
13 jurisdictional elements should be -- you know --  
14 you should cross-examine a witness about the  
15 jurisdictional elements about whether Ms. Spencer  
16 is a resident of the County of Santa Cruz, State of  
17 Arizona. Okay?

18 But there are some specific allegations,  
19 upon which this particular witness bases his claim  
20 against Angel Valley, the Hamiltons, Mr. Ray, James  
21 Ray International, et cetera, that are relevant.

22 THE COURT: We're going to handle this  
23 question by question, and the appropriate questions  
24 go to possible or potential motive or bias. To my  
25 mind, not something that this witness would have to

1 speculate about concerning some technical aspect.

2 MR. LI: Technical aspects, I understand. So,  
3 for instance, where somebody is a resident, or what  
4 particular code section provides jurisdiction --  
5 you know -- all of those sorts of things I  
6 understand are technical.

7 It's not just bias. I mean, it's  
8 also -- this is a statement of the witness. This  
9 is -- this is a complaint drafted on his behalf.

10 THE COURT: That's true. So that's accurate.  
11 Yes.

12 MR. LI: And so if he's now saying something  
13 else, we get to ask him whatever he said back in  
14 November, 2009. This is his. He cannot walk away  
15 from it.

16 Ms. Polk cannot possibly be taking the  
17 position that a man can walk away from the legal  
18 action that he brings to try to get money. That is  
19 just not the law.

20 THE COURT: I've indicated we're going to  
21 handle this question by question, Ms. Polk.

22 MR. LI: Thank you, Your Honor.

23 MS. POLK: Your Honor, the issue is relevance.

24 Again, the state agrees that it would be  
25 appropriate to inquire into the witness's motive or

1 bias by inquiring as to whether there has been a  
2 lawsuit, if it's been settled, and if so, how much.

3 Once you've inquired into motive or bias,  
4 though, to go beyond that, it's an issue of  
5 relevance.

6 Where Mr. Li wants to go is to ask the  
7 witness if he believed that the Hamiltons were  
8 negligent. Did he believe Mr. Ray was negligent.  
9 Did Mr. Mehravar believe he was exposed to toxins.

10 What is that relevant to? It's simply  
11 not relevant what this witness believes about other  
12 people's negligence. It's not relevant, and it's  
13 speculative about whether this witness believes he  
14 was exposed to toxins.

15 Bias and motive is appropriate. But you  
16 accomplish that, you step aside from that. And now  
17 the inquiry isn't relevant.

18 And it isn't relevant. It's not relevant  
19 to allow a witness to speculate as to his opinion  
20 as to what parties were negligent and/or why and to  
21 speculate about what he was exposed to. Was he  
22 exposed to toxins?

23 MR. LI: First of all, Your Honor, I'm not  
24 asking anybody to speculate about anything. I'm  
25 just asking what did you say? What was your

266

1 lawsuit about?

2 That's a very different inquiry.

3 THE COURT: But it's not -- because the way --  
4 what he would answer, then, would be his  
5 speculation about what someone else believes might  
6 be true probably.

7 The lawyers -- the lawyers put this  
8 together. They do the research. They decide what  
9 the potential theories are. They have to file it  
10 in good faith. Rule 11? It's been a while, the  
11 civil law.

12 They have to do that. And so talking to  
13 somebody about whether or not it was carbon  
14 monoxide or he actually had a belief as to that --  
15 we're going to handle this question by question.

16 MR. LI: That's fair enough. I won't ask him  
17 do you believe "XY."

18 I would just say it is ironic that we're  
19 not allowed to ask a witness about his particular  
20 lawsuit that he filed but we are allowed to hear  
21 from the state's witnesses about all their various  
22 speculations about what other people were thinking,  
23 and what their various motivations were for  
24 sticking it out in various seminar.

25 THE COURT: I try to keep those to the

1 particular person testifying.

2 MR. LI: There is a relevance --

3 THE COURT: I know there was a question, I  
4 talked about the straw man that apparently was  
5 going to be set up to knock down with a prior  
6 inconsistent. And that got very general. We had a  
7 long bench conference about that.

8 But I don't want speculation about other  
9 people's motives or something like that. I can't  
10 think of that really coming in just as -- in the  
11 manner you're suggesting, Mr. Li.

12 MR. LI: Your Honor, the bottom line is I  
13 understand that the Court will deal with this  
14 question by question. We believe we have every  
15 right to ask this witness about his complaint that  
16 he asked for money. We don't think it is at all  
17 appropriate to limit it to did you file a lawsuit  
18 and did you get a settlement?

19 There is no rule of law I've ever heard,  
20 that requires that.

21 THE COURT: You went through a string of eight  
22 or nine questions, I think, before you finally got  
23 to one that may be of some concern because it's  
24 really asking somebody -- I don't know what the  
25 purpose would be for that particular question.

268

1 I'm going to think about it. This is the  
2 first time I've seen it. And always welcome  
3 authority.

4 The other thing that was brought up is  
5 getting into the amount. I think the normal  
6 process would be if there is an alleged -- well,  
7 it's quite often in a different posture the defense  
8 wanting to explore an amount.

9 MR. LI: I'm surprised that the state wants to  
10 get into it. And I'm not going to put it on the  
11 record what the amount it is because I think there  
12 are some confidentiality agreements that are  
13 subject to court rules.

14 But I am surprised that the state would  
15 want to get into that because it's a significant  
16 amount of money. And he's asking for more money  
17 from other people. And I had not intended to go  
18 there because I don't think it's -- you know.

19 But if the state -- because I'm trying  
20 not to draw every objection.

21 THE COURT: I want to know. Normally the  
22 state would not be asking that. That was my  
23 observation as well.

24 Ms. Polk, I'm wondering, since that's the  
25 case -- and I don't read anything into this. But

1 what purpose would that serve for the state to do  
2 that?

3 MS. POLK: Well, Your Honor, if the defendant,  
4 Mr. Ray, has settled a civil lawsuit, then that is  
5 an admission of some liability.

6 We don't know -- we don't know what  
7 happened to the case because of the confidentiality  
8 agreement. The defendant knows. I don't know if  
9 the criminal defense attorneys know. But the state  
10 does not know.

11 Every witness who filed a complaint  
12 against the defendant, we know that it is settled.  
13 But every single witness has told us there is a  
14 confidentiality agreement. We have respected that  
15 and we have not asked about the terms.

16 MR. LI: Actually --

17 THE COURT: I don't think the release is going  
18 to say that there is an admission of liability.  
19 I've seen very few civil settlements that have that  
20 kind of a release.

21 MR. LI: I think they would pull my Bar card  
22 if I wrote a release that says -- you know -- we're  
23 liable and guilty. That's not what settlements  
24 typically are.

25 THE COURT: I have a concern with the defense

1 wanting to bring this up. I'm not saying which way  
2 it goes. It's potential. It has -- I'm talking  
3 about the whole issue of wanting to cross-examine  
4 on the lawsuit. That's completely understandable.  
5 That goes to possible motive and bias.

6 But then trying to restrict that yourself  
7 in terms of the amount of settlement -- although I  
8 don't see that as a particularly relevant concern,  
9 especially from the state's perspective, Ms. Polk.

10 I'd be very surprised if there would be  
11 any admission of liability whatsoever. Of course,  
12 that's one of the major reasons people settle and  
13 to clear that part up.

14 Go ahead.

15 MS. POLK: Your Honor, again, the problem is  
16 the state is operating with very little  
17 information. Again, we were just given this  
18 lawsuit last night. We are not privy to the  
19 confidentiality agreement. We're not privy to the  
20 terms of the settlement because of the  
21 confidentiality agreement. So we're just operating  
22 in the dark.

23 I'm just trying to understand how far the  
24 Court will allow the defense to go on  
25 cross-examination so I know what to do with the

1 witness.

2 It was not an area that I intended to go  
3 into to ask this witness if he has filed a lawsuit.  
4 But knowing that Mr. Li intends to, then I  
5 obviously would want to draw the sting.

6 But, again, I don't know the terms of the  
7 settlement. What I do know, I guess I'm assuming,  
8 is that some money was paid by the defendant to  
9 this man.

10 MR. LI: Not by the defendant.

11 MS. POLK: Let me just finish.

12 I appreciate that I do not know the  
13 facts. And I don't know the facts because there is  
14 a confidentiality agreement in place that leaves  
15 the state operating in the dark about an area that  
16 the defense has indicated they are going to  
17 cross-examine this witness on.

18 I need to know what the parameters are.  
19 If I understand how far Mr. Li will be allowed to  
20 go, then that can help me in deciding how to  
21 question the witness tomorrow.

22 THE COURT: Being presented with this right  
23 now -- and this witness has been disclosed for some  
24 time. I don't know when the lawsuit was filed.  
25 Maybe somebody can tell me just off the front page.

1 MR. LI: November, 2009.

2 THE COURT: November, 2009. So this isn't  
3 something that had to be brought up right now.  
4 This would be --

5 MR. LI: I mean, Your Honor, just really, it  
6 staggers the imagination. This is a public  
7 document.

8 THE COURT: I know.

9 MR. LI: And Detective Diskin is quite good at  
10 finding things and calling people and digging up  
11 stuff if he wants to.

12 These are the state's witness. They can  
13 just ask the witnesses, hey. Can I get a copy of  
14 that lawsuit you filed? Can you tell me what the  
15 terms of your settlement were? Whatever. Can I  
16 talk to your lawyer?

17 THE COURT: I'm going to have to handle it  
18 question by question when it's given to me at this  
19 point. I haven't had time to look into it.

20 And no one seems to be disputing it's a  
21 relevant area for cross-examination. Not something  
22 that requires extrinsic evidence, especially  
23 whenever it's disclosed.

24 Given the disclosure now, if it's going  
25 to now be an exhibit all of a sudden, then further

1 guidance on that? I'll try to look at the law in  
2 the interim.

3 I'm not going to allow questions that  
4 just get into speculation. It's something somebody  
5 is not going to know because an attorney put a  
6 legal document together.

7 In terms of actually motivation and bias,  
8 those are legitimate questions. You can ask that.  
9 But not -- can't be questions to raise a defense  
10 theory in the guise of attacking motive and bias,  
11 if that's the suggestion.

12 MR. LI: Your Honor, it's not just motive and  
13 bias. This is a statement --

14 THE COURT: Okay. That's what I've been  
15 talking -- why didn't you let me know I was on the  
16 wrong track?

17 MR. LI: No, no, no. There are multiple  
18 reasons why you get to ask a witness about a  
19 lawsuit they filed. One of them is motive and  
20 bias.

21 Another is that this is, essentially, a  
22 statement of the plaintiff in this case. If the  
23 plaintiff were sitting here today on the stand  
24 testifying about what he experienced while he was  
25 in the sweat lodge in 2009, I would get to walk up

1 to him and ask him questions about it.

2 THE COURT: Can I see the complaint?

3 MR. LI: Yes, Your Honor.

4 THE COURT: Do you mind, Ms. Polk, if I look  
5 at the complaint?

6 MS. POLK: No, Your Honor.

7 THE COURT: I just want to look at the request  
8 for relief.

9 So, if you look at the last allegation,  
10 are you saying that that's something that can be  
11 explored as well? I'm looking on Page 17.

12 MR. LI: You mean the attorney's fees and  
13 cost?

14 THE COURT: Before that. If you're going to  
15 ask about certain beliefs he has as to what might  
16 have gone wrong, is that something the state could  
17 ask?

18 MR. LI: Your Honor, the point is this: It's  
19 not what you believe went on. The question is, did  
20 you file a lawsuit? Did you allege "X"?

21 THE COURT: Then when the state gets up and  
22 wants to ask about that last allegation, then  
23 that's going to stop.

24 I just want to see where this is going to  
25 go so we don't have an interminable bench

1 conference on this.

2 There are things in here I don't think  
3 you're going to want to ask in terms of what is  
4 alleged. I'm not going to presume to look at  
5 either side. But I want -- needs to be thought  
6 through.

7 I'm going to think about the questions on  
8 a question-by-question basis.

9 And I guess Ms. Polk is saying that since  
10 there is going to be cross-examination, that it's  
11 something that ought to be brought out once it's  
12 brought out while it's still on direct.

13 That's all I can say. I'm going to do my  
14 best to admit admissible evidence.

15 MR. LI: I understand, Your Honor.

16 THE COURT: And restrict that which is not.

17 MR. LI: I understand that, Your Honor. And I  
18 appreciate that.

19 THE COURT: Okay.

20 MR. LI: We will -- I just -- we will do our  
21 best to find some authority on this proposition.  
22 But I literally -- this is something I've just  
23 never heard of. So we will try to do our best  
24 to --

25 THE COURT: You've never heard of being

1 allowed to fully explore possible motive and bias,  
2 because of a civil lawsuit? Because that's what  
3 you can do.

4 MR. LI: No, Your Honor, I've never heard the  
5 state object to a defense -- a defendant on trial  
6 in a criminal case -- I've never heard the state  
7 actually object to full and fair cross-examination  
8 of a witness about all of the statements that he  
9 made, including those that might show bias and  
10 motive and including those that he may have adopted  
11 in one way or another. I've just never heard of  
12 that.

13 And -- you know -- he's going to get up  
14 there and say all kinds of thing, I presume, about  
15 Mr. Ray. And we'll do our best.

16 THE COURT: Ms. Polk.

17 MS. POLK: Your Honor, it's just that I think  
18 there is some twisting of what the issue is.

19 This complaint, first of all, is only  
20 signed by an attorney. It's not signed by  
21 Mr. Mehravar, our witness. And it contains the  
22 pleadings filed within a month of the incident  
23 itself.

24 And those pleadings, I think everyone  
25 would accept, are speculations by the attorneys as

1 to what went wrong and who is criminally -- or I'm  
2 sorry -- civilly responsible for what went wrong.

3 And just as the defense would not be  
4 allowed to cross-examine the attorney who wrote  
5 that paper, they should not be allowed to  
6 cross-examine the plaintiff who did not write that  
7 paper. It's purely speculative and clearly  
8 inadmissible.

9 The second issue is that Rule 15.2 of the  
10 Rules of Criminal Procedure, Rule 15.2(c)(3), sets  
11 forth the defense's obligation.

12 The state has a right to expect that the  
13 defense would comply with the rules. And (c)(3)  
14 says the defense has to provide to the state a list  
15 of all papers, documents, photographs and other  
16 tangible objects, that he intends to use at trial.

17 He now intends to use a civil complaint  
18 at trial that had not been previously disclosed to  
19 the state.

20 THE COURT: Thank you.

21 Going to recess.

22 (The proceedings concluded.)

23

24

25

1 STATE OF ARIZONA     )  
2 COUNTY OF YAVAPAI    ) ss: REPORTER'S CERTIFICATE

3

4 I, Mina G Hunt, do hereby certify that I  
5 am a Certified Reporter within the State of Arizona  
6 and Certified Shorthand Reporter in California.

7 I further certify that these proceedings  
8 were taken in shorthand by me at the time and place  
9 herein set forth, and were thereafter reduced to  
10 typewritten form, and that the foregoing  
11 constitutes a true and correct transcript

12 I further certify that I am not related  
13 to, employed by, nor of counsel for any of the  
14 parties or attorneys herein, nor otherwise  
15 interested in the result of the within action

16 In witness whereof, I have affixed my  
17 signature this 29th day of March, 2011.

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MINA G HUNT, AZ CR No. 50619  
CA CSR No 8335

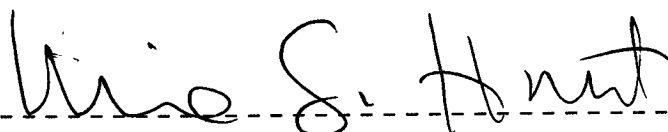
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25 CA CSR No. 8335